Supreme Court, U.S.
FILED
DEC 5 1990
JOSEPH F. SPANIOL, JR.
CLERK

(4)

No. 90-333

IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

LAMPF, PLEVA, LIPKIND, PRUPIS & PETIGROW,
Petitioner,

v.

JOHN GILBERTSON, JOHN V. REITZ, and
ANTHONY CATALAN, *et al.*,
Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

---

JOINT APPENDIX

---

*BARRY W. DOD
F. GORDON ALLEN
ALLEN, KILMER, SCHRADER, YAZBECK & CHENOWETH, P.C.
1600 Security Pacific Plaza
1001 S.W. Fifth Avenue
Portland, OR 97204
(503) 224-0055

Attorneys for Respondents

**Counsel of Record*

*THEODORE B. OLSON
JOHN H. STURC
THEODORE J. BOUTROUS, JR.
GIBSON, DUNN & CRUTCHER
1050 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 955-8500

S. JOEL WILSON
R. DANIEL LINDAHL
BULLIVANT, HOUSER, BAILEY, PENDERGRASS & HOFFMAN
1400 Pacwest Center
1211 S.W. Fifth Avenue
Portland, OR 97204
(503) 228-6351

Attorneys for Petitioner

**Counsel of Record*

Petition for Writ of Certiorari Filed August 10, 1990
Writ of Certiorari Granted October 9, 1990

PRESS OF BYRON S. ADAMS, WASHINGTON, D.C. (202) 347-8203

256

TABLE OF CONTENTS

	Page
Relevant Docket Entries in the United States Court of Appeals for the Ninth Circuit	JA-1
Relevant Docket Entries in the United States District Court for the District of Oregon	JA-5
Complaint in *Reitz, et al.* v. *Leasing Consultants Associates, et al.*, Civ. No. 86-1368-RE (Excerpts)	JA-17
Complaint in *Gilbertson, et al.* v. *Leasing Consultants Associates, et al.*, Civ. No. 86-1369-RE (Excerpts)	JA-124
Complaint in *Catalan* v. *Paulson Investment Co., et al.*, Civ. No. 87-593-RE (Excerpts)	JA-226
*July 14, 1990 Order of the United States District Court for the District of Oregon	JA-253

---

* The remaining opinions and orders of the District Court and the Court of Appeals relevant to the proceedings in this Court are printed in the appendix to the petition for writ of certiorari and therefore have not been reproduced herein.

RELEVANT DOCKET ENTRIES IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 88-4100

JOHN GILBERTSON and JANICE GILBERTSON, *et al.*
Plaintiffs-Appellants,

v.

ANDERS G. ARNHEIM; ALANTHUS CORPORATION, formerly known as Technology Finance Group, Inc.; COMPUTER VALUE ASSOCIATES; AMERICAN COMPUTER EQUIPMENT LEASING; LEASING CONSULTANTS ASSOCIATES; GORDON S. ROSEN ASSOCIATES, INC.; WILLIAM MCKENNA; TEXCOM EQUIPMENT CORPORATION; RICHARD A. HEITMEYER; RICHARD D. WELLBROCK; WILLIAM B. WARD, *et al.*,
Defendants-Appellees.

No. 88-4077

JOHN V. REITZ; JUDITH MACDONALD; DALE R. PETERSON; EARL D. RIDDLE; JACK E. EVANS; HARLAN C. SELBY; ROBERT E. JOHNSEN; PERRY COLEMAN; NICKOLAS J. MADESH; ROBERT A. GRAHAM; JERRY E. MARKS, *et al.*,
Plaintiffs-Appellants

v.

LEASING CONSULTANTS ASSOCIATES; WILLIAM MCKENNA; RICHARD A. HEITMEYER; RICHARD D.

WELLBROCK; WILLIAM B. WARD, *et al.*,; GLOBAL COMPUTER CORPORATION; RONALD JOHNSON; TEXCOM EQUIPMENT CORPORATION; COMDISCO, INC.; KENNETH M. PONTIKES; MARTIN KARNOFF; JOHN COSTELLO; DAVID MARKS; GORDON S. ROSEN ASSOCIATES, INC.; GORDON S. ROSEN; SOFTWARE SYSTEMS FOR WORD PROCESSORS, INC.; BERLENT INDUSTRIES, INC.; HARVEY BERLENT

Defendants-Appellees

No. 88-4099

ANTHONY E. CATALAN,

Plaintiff-Appellant,

v.

PAULSON INVESTMENT COMPANY, INC.; LAMPF, PLEVA, LIPKIND, PRUPIS & PETIGROW; COMPUTER VALUE ASSOCIATES; GORDON S. ROSEN ASSOCIATES, INC.; TECHNICAL MARKETING SERVICES, INC.; LEASING CONSULTANTS ASSOCIATES; WILLIAM MCKENNA; RICHARD A. HEITMEYER; RICHARD D. WELLBROCK; WILLIAM B. WARD, *et al.*,

Defendants-Appellees

9/21/88 Filed order (Deputy Clerk: AHH) appellants' motion to consolidate appeals No. 88-4077, 88-4099 and 88-4100 is granted [1191606-1] in 88-4099, 88-4077, 88-4100 [88-4099, 88-4077, 88-4100] (mt) [88-4077, 88-4099, 88-4100]

2/8/89 Filed original and 15 copies Appellant John V. Reitz in 88-4077, Appellant Judith MacDonald in 88-4077, Appellant Dale R. Peterson in 88-4077, Appellant Earl D. Riddle in 88-4077, Appellant Jack E. Evans in 88-4077, Appellant Harlan C.

Selby in 88-4077, Appellant Robert E. Johnsen in 88-4077, Appellant Perry Coleman in 88-4077, Appellant Nickolas J. Madesh in 88-4077, Appellant Robert A. Graham in 88-4077, Appellant Jerry E. Marks in 88-4077, Appellant Anthony E. Catalan in 88-4099, Appellant John Gilbertson in 88-4100, Appellant Janice Gilbertson in 88-4100 opening brief 68 pages, and five excerpts of record in 4 volumes; served on 2/6/89 (per confatt) [88-4077, 88-4099, 88-4100] (tsp) [Entry date 02/09/89] [88-4077, 88-4099, 88-4100]

4/12/89 Received orig. copies 15 Lampf, William McKenna, Leasing Consultants, et al's brief of 91 pages and 5 excerpts; served on 4/10/89 [Brief returned to counsel for correction of double-sided printing; excerpts on shelf] [88-4077, 88-4099, 88-4100] (dmf) [Entry date 04/13/89] [88-4077, 88-4099, 88-4100]

4/26/89 Filed original and 15 copies appellee Anders G. Arnheim, et al in 88-4100's 19 pages brief, 0 Exc. vols:; served on 4/24/89 [88-4077, 88-4099, 88-4100] (dmf) [88-4077, 88-4099, 88-4100]

4/27/89 Filed original and 15 copies appellee Kenneth M. Pontikes, Comdisco, Inc.'s 24 pages brief, 1 Exc. vols:; served on 4/24/89 [88-4077, 88-4099, 88-4100] (dmf) [88-4077, 88-4099, 88-4100]

5/25/89 Filed original and 15 copies John V. Reitz, et al's joint reply brief, 46 pages, served on 5/22/89 [88-4077, 88-4099, 88-4100] (dmf) [Entry date 05/26/89] [88-4077, 88-4099, 88-4100]

9/12/89 ARGUED AND SUBMITTED TO: PREGERSON, TROTT, FERNANDEZ [88-4077, 88-4099, 88-4100] (pg) [Entry date 09/18/89] [88-4077, 88-4099, 88-4100]

2/5/90	FILED MEMORANDUM OPINION: We REVERSE AND REMAND for proceedings consistent with our holdings herein. (Terminated on the Merits after Oral Hearing; Reversed; Written, Unsigned, Unpublished. PREGERSON, TROTT, author; FERNANDEZ) FILED AND ENTERED JUDGMENT. [88-4077, 88-4099, 88-4100] (jr) [Entry date 02/22/90] [88-4077, 88-4099, 88-4100]
2/20/90	[1718945] Filed original and 40 copies aples' (Lampf, Pleva, et al) petition for rehearing with suggestion for rehearing en banc 13 pages; served on 2/16/90 to (PANEL & ALL ACTIVE JUDGES). [88-4077, 88-4099, 88-4100] (jr) [Entry date 02/22/90] [88-4077, 88-4099, 88-4100]
5/16/90	Filed order (PREGERSON, TROTT & FERNANDEZ) the petition for rehearing is DENIED and the suggestion for rehearing en banc is REJECTED. [1718785-1] in 88 4077, 88-4099, 88-4100 [718945-1] in 88-4077, 88-4099, 88-4100 [88-4077, 88-4099, 88-4100] (jr) [88-4077, 88-4099, 88-4100]
7/13/90	MANDATE ISSUED. COSTS TAXED. [88-4077, 88-4099, 88-4100] (dmf) [88-4077, 88-4099, 88-4100]
8/29/90	Rec'd notice from Supreme Court: petition for certiorari filed on 8/10/90, Supreme Court No. 90-333. [88-4077, 88-4099, 88-4100] (jr) [Entry date 09/11/90] [88-4077, 88-4099, 88-4100]

RELEVANT DOCKET ENTRIES IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

Civ. 86-1368-RE

JOHN REITZ, *et al.*
v.
LEASING CONSULTANTS ASSOCIATES, *et al.*

1986		
Nov. 3	1)	COMPLT-sec. law violation
Dec. 5	5)	FIRST AMENDED COMPLT with J/T demand
1987		
Mar. 13	146)	2nd AMENDED COMPLT with J/T demanded
Mar. 17	148)	ORD- discv open only on the issues of the statute of limitations, venue & pers. jurisd ***
May 6	214)	3rd AMENDED COMPLT-j/t demanded
Aug. 3	288)	4th AMENDED COMPLT; j/t demanded
Oct. 1	319)	ANS of LCI, Inc. Leasing Consultants Assoc. Wm. L. McKenna & Richard Wellbrock to 2nd am/complt, cross claims & am/3rd party complt; j/t demand

1988

Feb. 1	399)	Deft Lampf's mot for s/j
Feb. 1	400)	Certain defts' joint memo in support of mots for s/j
Feb. 1	401)	Affidvt of R. Daniel Lindahl in support of certain defts' mot for s/j
Feb. 1	403)	Affidvt of Elizabeth Chadwick as to serv on 3rd party deft James D. Quenemoen
Feb. 1	404)	Affidvt of Elizabeth Chadwick as to serv on 3rd party deft R.G. Williams
Feb. 1	409)	Deft Lampf's mot for s/j
Feb. 1	410)	Exhibits A-D to the affidvt of R. Daniel Lindahl
Feb. 1	411)	Exhibits E-L to the affidvt of R. Daniel Lindahl
Feb. 1	412)	Exhibits M-N to the affidvt of R. Daniel Lindahl
Feb. 1	413)	Exhibits O-Q to the affidvt of R. Daniel Lindahl
Feb. 1	414)	Exhibits R-S to the affidvt of R. Daniel Lindahl
Feb. 1	415)	Exhibits T-V to the affidvt of R. Daniel Lindahl
Feb. 22	428)	Troy assoc. pltfs' response to mots for s/j
Feb. 22	429)	Affidvt of Robert L. Halloran in response to defts' mots for s/j
Feb. 22	430)	Lamar Assoc. pltfs' response to mots for s/j

Feb. 22	431)	Salem Assoc. pltfs' response to mots for s/j
Feb. 22	432)	Euston pltfs' response to defts' mots for s/j
Feb. 22	433)	Duval pltfs' response to defts' mots for s/j
Feb. 22	434)	Mt. Hood pltfs' response to defts' mots for s/j
Feb. 22	435)	Columbia assoc. pltfs' response to mots for s/j
Feb. 22	436)	Pltfs' joint memo in opposit to all defts' mots for s/j; o/a req.
Feb. 22	437)	Affidvt of Justine Fischer
Feb. 22	439)	Exhibit A to O'Halloran affidvt in response to defts' mots for s/j
Feb. 22	440)	Exhibit B to O'Halloran affidvt in response to defts' mots for s/j
Feb. 22	441)	Exhibits C through OO to O'Halloran affidvt in response to defts' mots for s/j
Mar. 4	449)	Deft Lampf's memo in reply to pltfs' opposit to lampf's mot for s/j
Mar. 4	450)	Affidvt of Cindy Zemaitis
Mar. 4	452)	Lci defts reply to pltfs' opposit to defts' mots for s/j
Mar. 4	453)	Affidavit of David A. Urman
Mar. 21	457)	Rec of hrg- ord taking u/advise
Mar. 24	458)	Rec of ord: Discv & all proceedings in case are placed on stay until issuance of the opinion and ord on defts' mot for s/j on statute of limitation grounds

Jun. 13	462)	OPINION-Only the orico claims remains. I decline to exercise pendent jurisd. over this state claim & dism it for want of subj. matter jurisd-in Catalan. Granting defts' mots for s/j.e/7-13 s/7-13 RE ntfd
Jan. 13	463)	ORD- all defts' mots for s/j are granted. SO ord. e/7-13 s/7-13 RE ntfd
Jun. 14	465)	JDGMT- for defts & cases are dism. e/7-15 s/7-14 RMC, clerk ntfd
Aug. 10	480)	NOTC OF APPEAL Pltfs from judgment 7/14/88

Civ. 86-1369-RE

JOHN B. GILBERTSON AND JANICE GILBERTSON
v.
LEASING CONSULTANTS ASSOCIATES, *et al.*

1986

Nov. 3	1)	COMPLT-Sec. law violation with J/T demanded
Dec. 1	6)	AMENDED COMPLT-with J/T demanded

1987

Mar. 13	244)	2nd AMENDED COMPLT- J/T demand
17	250)	ORD-discv open only on the issues of the statute of limitations, venue & pers. jurisd.
		* * *
20	251)	Pltfs' mot for leave to file 3rd am/complt
Apr. 3	264)	Rec of ord granting pltfs' mot for leave to file 3rd am/complt.
Jul. 23	403)	4th AMENDED COMPLT; j/t demanded
Oct. 1	434)	ANS of LCI, Inc. Leasing Consultants Assoc. Wm. McKenna & Richard Wellbrock to 2nd am/complt, cross-claims & am/3rd party complt; j/t demanded

1988

Feb. 1	500)	Mor of defts Arnheim, MCCostis, Hurwitz & Schreiber for s/j with o/ a req
Feb. 1	501)	Memo in support
Feb. 1	502)	Affidvt of Richard A. Wyman in support
Feb. 1	503)	Exhibits of defts in support of their memo
Feb. 1	(())	Deft Lampf's mot for s/j
Feb. 1	(())	Certain defts' joint memo in support of mots for s/j
Feb. 1	(())	Affidvt of R. Daniel Lindahl in support of certain defts' mot for s/j
Feb. 1	(())	Affidvt of Elizabeth Chadwick as to serv on 3rd party deft James D. Quenemoen
Feb. 1	(())	Affidvt of Elizabeth Chadwick as to serv on 3rd party deft R.G. Williams
Feb. 1	(())	Deft Lampf's mot for s/j
Feb. 1	(())	Exhibits A-D to the affidvt of R. Daniel Lindahl
Feb. 1	(())	Exhibits E-L to the affidvt of R. Daniel Lindahl
Feb. 1	(())	Exhibits M-N to the affidvt of R. Daniel Lindahl
Feb. 1	(())	Exhibits O-Q to the affidvt of R. Daniel Lindahl
Feb. 1	(())	Exhibits R-S to the affidvt of R. Daniel Lindahl

Feb. 1	(())	Exhibits T-V to the affidvt of R. Daniel Lindahl
Feb. 1	505)	Exhibits to memo in support of mot for s/j of deft Comdisco & Kenneth N. Pontikes
Feb. 1	506)	Memo in support of mot for s/j of deft Comdisco & Kenneth Pontikes

1988

Feb. 22	525)	Troy assoc. pltfs' response to mots for s/j
Feb. 22	526)	Affidvt of Robert L. O'Halloran in response to defts' mots for s/j
Feb. 22	528)	Lamar Assoc. pltfs' response to mots for s/j
Feb. 22	529)	Salem assoc. pltfs' response to mots for s/j
Feb. 22	530)	Euston pltfs' response to defts' mots for s/j
Feb. 22	531)	Duval pltfs' response to defts' mots for s/j
Feb. 22	532)	Mt. Hood pltfs' response to defts' mots for s/j
Feb. 22	533)	Columbia assoc. pltfs' response to mots for s/j
Feb. 22	534)	Pltfs' joint memo in opposition to all defts' mots for s/j
Feb. 22	535)	Affidvt of Justine Fischer
Feb. 22	(()	Exhibit A to O'Halloran affidvt in response to defts' mots for s/j
Feb. 22	(()	Exhibit B to O'Halloran affidvt in response to defts' mots for s/j

Feb. 22	(()	Exhibits C through OO to O'Halloran affidvt in response to defts' mots for s/j
Mar. 4	541)	Deft Lampf's memo in reply to pltfs' opposit to lampf's mot for s/j
Mar. 4	542)	Affidvt of Cindy Zemaitis
Mar. 4	544)	Affidvt of Richard A. Wyman in support of Amh&s reply brief (statute of Limit)
Mar. 4	545)	Defts Arnheim, McCostis, Hurwitz & Schreiber's reply memo
Mar. 4	548)	Reply memo in support of the mot for s/j of defts Comdisco, Inc & Kenneth Pontikes
Mar. 4	549)	2nd affidvt of Caryn Jacobs
Mar. 4	550)	Lci defts' reply to pltfs' opposit to defts' mots for s/j
Mar. 4	551)	Affidvt of David A. Urman
Mar. 21	553)	Rec of hrg- ord taking u/advise
Mar. 24	553A)	Rec of ord-Discv & all proceedings in case are placed on stay until issue of the opinion & ord on defts' mot for s/j on statute of limitation
Jul 13	555)	OPINION- only the orico claims remains [sic]. I decline to exercise pendent jurisd. over this state claim & dism it for want of subj. matter jurisd. in Catalan. Granting defts' mots for s/j. e/7-13 s/7-13 RE ntfd
13	556)	ORd- all defts' mots for s/j are granted. SO ORd. e/7-13 s/7-13 RE ntfd

14	557)	JDGMT- is for defts & these cases are dism. e/7-15 s/7-14 RMC, clerk ntfd
Jul 10	567)	NOTC OF APPEAL pltfs from judgment 7/14/88

Civ. 87-593-RE

ANTHONY E. CATALAN
v.
PAULSON INVESTMENT CO., *et al.*

1987			
June 4	1)	Complnt (securities law violations, RICO, Common Law Fraud, Negligence)	
Oct. 15	73)	First a/mended complaint	
1988			
Feb. 1	151)	Deft Lampf's mot for S/J	[c-RE]
Feb. 1	153)	Certain Defts' Joint Memo in support of mots for S/J	[c-RE]
Feb. [1	153c)	Affid of R. Daniel Lindahl in support of certain Defts mots for S/J	[c-RE]
Feb. 22	())	Exh A to O'Halloran affid in response to defts' mots for S/J	[to RE]
Feb. 22	())	Exh B to O'Halloran affid in response to defts' mots for S/J	[to RE]

Feb. 22	())	Exh C through OO to O'Halloran affid in response to defts' mots for S/J	[to RE]
Feb. 22	162)	Pltfs' joint memo in opposn to all defts' mots for S/J o/a reqstd	[to RE]
Feb. 22	163)	Columbia Assoc Pltfs' response to mots for S/J	[to RE]
Feb. 22	164)	Mt Hood Pltfs' response to Defts' mots for S/J	[to RE]
Feb. 22	165)	Duval Pltfs' response to Defts' mots for S/J	[to RE]
Feb. 22	166)	Euston Pltfs' response to Defts' mots for S/J	[to RE]
Feb. 22	167)	Troy Assoc Pltfs' response to mots for S/J	[to RE]
Feb. 22	168)	Salem Assoc Pltfs' response mots for S/J	[to RE]
Feb. 22	169)	Affid of Anthony E. Catalan	[to RE]
Feb. 22	170)	Affid of Justine Fischer	[to RE]
Feb. 22	171)	Affid of Robt L. O'Halloran in response to Defts' mots for S/J	[to RE]
Feb. 22	173)	Lamar Assoc Pltf's response to mots for S/J	[to RE]

Mar. 4	178)	Deft Lampf's memo in srply to pltfs' opposn to Lampf's mot for S/J [to RE]
Mar. 4	179)	Affid of Cindy Zemaitis [to RE]
July 13	186)	OPN-I grant defts' mots for s/j s RE 7/13/88 e/m 7/13/88 ntfd
July 13	187)	ORD-ORD that all of defts' mots for s/j are granted. s RE 7/13/88 ntfd
July 14	188)	JUDGMENT-ORD that judgment is for defts & these three cases are dsmsd
Aug. 10	193)	NOTICE OF APPEAL-Notice is hereby given that pursuant to Ruel [sic]4(a), Federal Rules of Appellate Procedure, pltf hereby appeals to the U.S. Court of Appeals for the Ninth Circuit from the jdgmnt entered on 7-14-88, dismissing this action, and the order entered on 7-13-88, granting defts' mots for s/j.

COMPLAINT IN *REITZ, et al.* V. *LEASING CONSULTANTS ASSOCIATES, et al.*, Civ. No. 86-1368-RE (D. ORE.)
(EXCERPTS)

• • •

Plaintiffs allege:

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF
JURISDICTION AND VENUE

1. Count I of each Claim for Relief asserted herein arises under Section 17(a)(1) of the Securities Act of 1933, 15 U.S.C. § 77q(a)(1). Jurisdiction for these Counts is conferred by 15 U.S.C. § 77v. Count II of each Claim for Relief asserted herein arises under Section 10 of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j and 17 C.F.R. 240.10(b)-5. Jurisdiction for these Counts is conferred by 15 U.S.C. § 78aa. Counts IV, V and VI of each Claim for Relief asserted herein arise under the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO"), 18 U.S.C. §§ 1962 and 1964. Jurisdiction for these Counts is conferred by 18 U.S.C. §§ 1964 and 1965. Jurisdiction for Counts III and Counts VII through XI of each Claim for Relief asserted herein arises under the principles of pendent jurisdiction.

2. Venue is proper in this district in that the acts alleged herein took place in whole or in part in Oregon, including the sales of the securities described herein, and the plaintiff's claims arose in this district.

DESCRIPTION OF THE PROGRAMS

3. This action arises out of the packaging, syndication, promotion and sale in Oregon of certain tax shelter limited partnerships known as Duval Associates, LaMar Associates, Mt. Hood Associates, Columbia Associates, Salem Associates, and Euston Associates. As more particularly described herein, these tax shelters involved the purchase and leaseback of certain IBM computer hardware equipment and certain so-called master tapes of computer soft-

ware programs. Plaintiffs invested in these tax shelters by purchasing limited partnership units in one or more of these partnerships.

4. These tax shelter partnerships were promoted and sold during 1979, 1980, and 1981 to general partners and then to investors as "pre-packaged" programs. The partnerships were identical or virtually identical to each other in several respects, including the following:

a. Each partnership was packaged and promoted by the same group of six defendants ("the packagers"), as described more particularly herein.

b. Each partnership was comprised of 35 limited partnership "units" and was designed to raise approximately $1 million.

c. Each partnership was to enter into identically structured sale and leaseback transactions with respect to the computer equipment and master tape, as described more particularly herein.

d. Each partnership was created as a Connecticut limited partnership.

e. The offering memoranda used to promote and sell the partnerships were virtually identical in format and in content.

f. The tax opinions contained in these offering memoranda were virtually identical in format and in content.

g. The equipment appraisals contained in these offering memoranda were virtually identical in format and contained a substantial number of identical or virtually identical phrases.

h. The master tape appraisals contained in these offering memoranda were similar in format and contained a substantial number of identical or virtually identical phrases.

5. These partnerships were also similar to at least twelve other tax shelter limited partnerships packaged and promoted by the packager defendants in Oregon and elsewhere during this same time period, including the limited partnerships known as Troy Associates, Runnels Associates, Lake Associates, Mars Associates, Victoria Associates, Travis Associates, K-T Associates, Bandera Associates, Evergreen Associates, Celica Associates, Maverick Associates, and Yoakum Associates.

6. The tax benefits purportedly to be derived from investing in the limited partnerships described herein were to be achieved through a complex series of purchase, sale and leaseback transactions structured and arranged by the packager defendants. As described in the offering memoranda used to promote and sell the investments, these transactions were to be structured as follows:

a. The Equipment Transactions

(1) Each partnership was to purchase certain specified IBM computer hardware equipment (the "equipment") from an identified entity. This entity was the immediate seller of the equipment to the partnership and will hereinafter be referred to as the "immediate seller." The partnership was to pay less than ten percent of the purchase price of the equipment in cash at closing, and the remainder was to be financed by a nine-year nonrecourse note. The equipment was purportedly already subject to a bank debt at the time of this transaction.

(2) Just prior to this sale to the partnership, the immediate seller had purportedly purchased the equipment from another identified entity (the "equipment seller") for resale to the partnership.

(3) Simultaneously with purchasing the equipment from the immediate seller, the partnership was to lease the equipment back to the equipment seller under a noncancellable nine-year lease. The equipment seller would

thereby become a lessee of the equipment from the partnership. This entity will hereinafter be referred to as the "equipment seller/lessee."

(4) At the time of all these transactions, the equipment was represented to be already in place and in use by one or more identified nationally recognized companies (the "user"). The user had purportedly leased the equipment from the equipment seller/lessee before it was sold to the immediate seller for resale to the partnership. This underlying lease (the "user lease") was to expire within 36 to 48 months, at which time the equipment was to be re-leased to another user, if possible. During the pendency of any such subsequent user lease, the partnership was to receive a specified "bonus rental" of approximately 50 percent of the subsequent user's lease payments.

b. The Master Tape Transactions

(1) In addition to and simultaneously with purchasing the computer equipment, each partnership was to also purchase a master tape for certain specified computer software (the "master tape") from the same immediate seller from whom it had purchased the computer equipment. The master tape was purportedly designed for a specialized function or for use in a specific identified industry, and was purportedly readily marketable for that function or within that industry. The partnership was to pay less than ten percent of the purchase price of the master tape in cash at closing, and the remainder was to be financed by a long-term note of approximately 20 years. In addition, each partner in the partnership was to execute a "personal liability agreement" making him or her personally liable for his or her pro-rata share of the partnership's liability on the master tape note.

(2) Just prior to this sale to the partnership, the immediate seller had purportedly purchased the master

tape from another identified entity (the "master tape seller") for resale to the partnership.

(3) Simultaneously with purchasing the master tape from the immediate seller, the partnership was to lease the master tape back to an identified affiliate of the master tape seller. This entity will hereinafter be referred to as the "master tape lessee."

(4) The master tape lessee was to market and license the master tape to businesses or entities that were in need of the specialized function the software could perform or within the specific industry for which the software was designed. Revenues generated from marketing and licensing the master tape were to be shared with the partnership in the form of certain specified flat and percentage fees paid to the partnership.

7. The offering memoranda issued to promote and sell each of the partnerships and to attract potential investors contained, among other things, the following:

a. A description of the transactions as outlined above;

b. A purportedly independent appraisal of the computer equipment, including an appraisal and valuation of its fair market value, residual value and useful life;

c. A purportedly independent appraisal of the master tape, including an appraisal and valuation of its fair market value and useful life, and a description of potential markets and licensees for the master tape; and

d. A tax opinion letter by defendant Lampf describing the tax benefits to be derived from investing in the partnership, including eligibility for an investment tax credit for the master tape transaction, depreciation of both equipment and master tape, and for investor interest expense, and partnership trade or business expenses and losses.

8. In or around April and/or October 1984, in connection with the settlement of litigation against them relating to

the limited partnerships known as Evergreen Associates, Celica Associates, Maverick Associates, and Yoakum Associates, the packager defendants and defendant Lampf arranged to have all documents and materials relating to or generated in that litigation kept confidential and/or sealed by the court.

DESCRIPTION OF THE PLAINTIFFS

9. As more particularly described herein, plaintiffs are 49 individuals or entities that invested in one or more of the limited partnerships described herein.

DESCRIPTION OF THE DEFENDANTS

The Packagers

10. Defendants Leasing Consultants Associates ("LCA"), Leasing Consultants, Inc. ("LCI"), William L. McKenna ("McKenna"), Richard A. Heitmeyer ("Heitmeyer"), Richard D. Wellbrock ("Wellbrock") and William B. Ward ("Ward") acted as packagers and promoters of the tax shelter programs sold to plaintiffs, and conceived and arranged for the sale, purchase and lease transactions involved, procured the services of Lampf and other defendants, caused the preparation and dissemination of a model offering memorandum, solicited and procured broker/dealers and others to place or sell the limited partnership interests to plaintiffs, and solicited and procured appraisals for the equipment and master tapes.

11. Defendant LCA was at all relevant times a New Jersey general partnership comprised of defendants McKenna, Heitmeyer and Wellbrock.

12. Defendant LCI was at all relevant times a Delaware corporation with its principal place of business in New Jersey, and was an affiliate of defendant LCA. Defendants McKenna, Heitmeyer, Wellbrock and Ward were officers

and controlling persons of LCI and were, at all relevant times, citizens of the state of New Jersey.

The Immediate Sellers

13. As described above, defendant LCA was at all relevant times a New Jersey general partnership.

14. As described above, defendant LCI was at all relevant times a Delaware corporation with its principal place of business in New Jersey.

15. Defendant American Computer Equipment Leasing, Inc. ("ACE") was at all relevant times a corporation doing business in the state of New York.

16. Defendant Computer Systems Consultants, Inc. ("CSC") was at all relevant times a Delaware corporation with its principal office in Ridgewood, New Jersey.

The Equipment Sellers/Lessees

17. Defendant Analysis International Co., Inc. ("Analysis") is or was a corporation with its principal place of business in Charlotte, North Carolina. Defendant Anico Computer Leasing, Inc. ("Anico") is or was a North Carolina corporation and the parent corporation and controlling person of defendant Analysis. Defendants Amato Hernandez ("Hernandez") and John Chandler ("Chandler") are or were officers and controlling persons of Analysis and Anico.

18. Defendant Alanthus Computer Corporation ("Alanthus Computer") and defendant Alanthus Corporation ("Alanthus") are or were Delaware corporations. On information and belief, Alanthus Computer and/or Alanthus are now known as Technology Finance Group. On information and belief, Alanthus Computer and/or Alanthus may have been affiliated with Analysis International Co., Inc.

18a. Defendant Comdisco, Inc. ("Comdisco") is or was a corporation doing business in the state of Illinois, and

defendant Kenneth Pontikes ("Pontikes") is or was an officer and controlling person of Comdisco.

The Master Tape Lessees and Affiliates

19. Defendants Kirby Microprocessors, Inc. ("KMI") and Kirby Computer Systems, Inc. ("Kirby Computer") were at all relevant times corporations doing business in the state of New Jersey. Defendant Robert. M. Kirby ("Kirby") is or was the owner and controlling person of KMI and Kirby Computer.

20. Defendants Gordon S. Rosen Associates, Inc. ("Rosen Associates") and Software Systems for Word Processors, Inc. ("SSWPI") were at all relevant times corporations doing business in the state of New York. Defendant Gordon S. Rosen ("Rosen") is or was the owner and controlling person of Rosen Associates and SSWPI.

21. Defendants Robrech Systems, Inc. ("Robrech") and Digitize, Inc. ("Digitize") were all relevant times corporations doing business in the state of New York.

22. Defendants Buhler Software Services ("Buhler Software") and P-STAT, Inc. ("P-Stat") were at all relevant times corporations doing business in the state of New Jersey. Defendant Roald Buhler ("Buhler") is or was the owner and controlling person of Buhler Software and P-Stat.

23. Defendants ASG Program Products, Inc. ("ASG") and Applications Systems Group, Inc. ("Applications") were at all relevant times corporations doing business in the state of New York. Defendant Martin D. Pine ("Pine") is or was the president and/or controlling person of ASG and Applications.

23a. Defendant Mark Hanson was at all relevant times the president and controlling person of two entities known as Prose, Inc. and M.A. Hanson & Associates which were

a corporation and entity doing business in the state of Pennsylvania.

The Equipment Appraisers

24. Defendant Computer Value Associates ("Computer Value") was at all relevant times a company doing business in the state of New York. Defendant James Cuthbert ("Cuthbert") is or was the president and controlling person of Computer Value.

25. Defendants Texcom Equipment Corporation ("Texcom") and Global Computer Corporation ("Global") were at all relevant times corporations doing business in the state of Texas. Defendant Ronald Johnson ("Johnson") is or was the president, owner, and controlling person of Texcom and Global.

26. Defendant Berlent Industries, Inc. ("Berlent Industries") was at all relevant times a corporation doing business in the state of New York. Defendant Harvey N. Berlent ("Berlent") is or was the president and controlling person of Berlent Industries.

The Master Tape Appraisers

27. Defendant Ward was at all relevant times a citizen of the state of New Jersey.

28. Defendant ConServ International, Inc. ("ConServ") was at all relevant times a corporation doing business in the state of New Jersey. Defendant Robert W. Steinberger ("Steinberger") is or was the president and controlling person of ConServ. Prior to his association with ConServ, Steinberger was vice president of defendant Kirby Computer.

29. Defendant Technical Marketing Services, Inc. ("TMS") was at all relevant times a corporation doing business in the states of New York and New Jersey.

Defendant Leonard F. Turi ("Turi") is or was the president and controlling person of TMS.

29a. Defendant Edward Fizell was at all relevant times a citizen of the state of New Jersey.

The Attorneys

30. Defendant Lampf, Pleva, Lipkind, Prupis & Petigrow, P.C. ("Lampf") was at all relevant times a professional legal corporation with its principal place of business in the state of New Jersey. Lampf is now known as Lampf, Lipkind, Prupis & Petigrow, P.C.

Non-Defendant Co-Conspirators

31. The Lawrence Group was at all material times a consulting firm controlled by defendant William Ward. After the sales of the limited partnership units described herein, the Lawrence Group was engaged by the partnerships, at the suggestion of the packager defendants, purportedly to monitor the status of each of the partnerships' equipment and master tape leases and to make periodic reports to the partnerships describing this status.

FIRST CLAIM FOR RELIEF - DUVAL ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Duval plaintiffs.

32. The Duval plaintiffs reallege and incorporate by reference paragraphs 1-31 above.

33. The following plaintiffs invested in the Duval Associates limited partnership in the amount and on the date indicated below. They shall be referred to herein as the "Duval plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Jack E. Evans	October 1979	$42,907

Earl D. Riddle	October 1979	42,907
Howard E. White	December 1979	28,604
Judith MacDonald	October 1979	28,604
Charles W. Botsford	October 1979	28,604
Jerry E. Marks	November 5, 1979	42,907
Theodore and Carolyn Beecher	October 1979	28,604
John V. Reitz	October 1979	28,604
Joseph C. Player	October 1979	28,604
Paul Winklesky	October 1979	14,302

34. The following defendants participated in the Duval Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Duval defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Duval partnership and were responsible for, among other things, the following:

(1) Creating a Connecticut limited partnership, which was subsequently renamed Duval Associates;

(2) Conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) Soliciting and arranging for the installation of general partner for the partnership;

(4) Soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) Soliciting and procuring other Duval defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) Soliciting and procuring the services of defendants Lampf to: act as general or special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Duval offering memorandum was

based, and prepare, print, and distribute a model partnership agreement and model sales and lease agreements, on which the Duval partnership agreement and sales and leases agreements were based; and

(7) Instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. Defendant CSC was the immediate seller for the Duval partnership. As described in paragraph 6a above, in this capacity, CSC was the entity which purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Duval equipment") purportedly consisted of an IBM 370/158 Central Processing Unit ("CPU"), an IBM 370/148 CPU, two IBM 370/138 CPU's, and approximately ten pieces of IBM peripheral equipment. The Duval partnership was to pay a total of $1,726,750 for this equipment. The master tape was of a software program known as Kirby Integrated Business Systems ("KIBS"), which was purportedly specially designed for use by home heating oil dealers and readily marketable within that industry. The Duval partnership was to pay a total of $2 million for this master tape. CSC played an integral and essential role in the fraud perpetrated upon the Duval plaintiffs in that, by purchasing the Duval equipment and the KIBS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Duval partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. CSC was or should have been aware of its integral role in the Duval offering and of the lack of economic substance in these transactions in

that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself, and with knowledge or reason to know that the equipment and master tape would be used by the packagers in a limited partnership offering. CSC knew or should have known its equipment and master tape transactions described herein would be used to induce these investors to invest in the partnership, and that these investors would rely upon the terms of these transactions in making their investment decisions and to substantiate, for tax purposes, the fair market value, useful life, title and residual value of the equipment, and the fair market value and useful life of the master tape.

c. Defendant Alanthus Computer was the equipment seller/lessee for the Duval partnership. As described in paragraph 6a above, in this capacity, Alanthus Computer was the entity which sold the Duval equipment to the immediate seller, CSC, for resale to the Duval partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the Duval equipment to the end users, which were represented to be General Motors, the Stop & Shop Companies, General Automation Company, and Hills-McCanna Company, and was to re-lease the equipment to one or more subsequent end users when the existing user leases expired. Alanthus Computer played an integral and essential role in the fraud perpetrated upon the Duval plaintiffs in that, by selling the Duval equipment to CSC for resale to the Duval partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that CSC had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Alanthus Computer also added credence to the reasonableness of the end-user lease terms described in the Duval offering memorandum, and thus helped to

substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Alanthus Computer also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end-user leases, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Alanthus Computer was or should have been aware of its integral role in the Duval offering and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself, and with knowledge or reason to know that the equipment would be used by the packagers in a limited partnership offering. Alanthus Computer knew or should have known the equipment transactions described herein would be used to induce these investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value, title, useful life, and residual value of the equipment.

d. Defendant Kirby Computer was the master tape lessee for the Duval partnership. As described in paragraph 6b above, in this capacity, Kirby Computer was the entity that leased the KIBS master tape back from the Duval partnership and was to market and obtain licensees for the use of the master tape. Defendant KMI was an affiliate of Kirby Computer and was the master tape seller for the Duval partnership. As described in paragraph 6b above, in this capacity, KMI was the entity that sold the KIBS master tape to CSC, the immediate seller, for resale to the Duval partnership. Defendant Kirby was the owner and controlling person of KMI and Kirby Computer. KMI, Kirby Computer, and/or Kirby had purportedly developed the KIBS software program and had purported expertise in marketing the KIBS master tape. On information and belief, Kirby formed Kirby Computer and/or KMI solely

for purposes of participating in the Duval partnership. KMI and Kirby played an integral and essential role in the fraud perpetrated upon the Duval plaintiffs in that, by selling the KIBS master tape to CSC for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if CSC had purchased the tape from an independent third party in an arm's length, negotiated transaction. Kirby Computer and Kirby played an integral and essential role in the fraud perpetrated upon the Duval plaintiffs in that, by virtue of their purported expertise in the KIBS software program and in the marketing of this software, they appeared capable of successfully exploiting the KIBS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. KMI, Kirby Computer, and Kirby were or should have been aware of their integral role in the Duval offering and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves, and with knowledge or reason to know that the KIBS master tape would be used by the packagers in a limited partnership offering. KMI, Kirby Computer, and Kirby knew or should have known that the KIBS master tape transactions described herein would be used to induce the investors to invest in the partnership, and that investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the KIBS master tape.

e. Defendant Berlent Industries was the equipment appraiser for the Duval partnership. Defendant Berlent was the president and controlling person of Berlent Industries. Defendants Berlent Industries and Berlent prepared a written appraisal of the Duval equipment, on or about October 19, 1979 (hereinafter the "Berlent-Duval ap-

praisal"), which appeared in the Duval offering memorandum, and which represented that the fair market value of the Duval equipment was $1.552 million, that the equipment had a useful life in excess of nine years, and that at the end of the nine-year period, its fair market value would be $310,000. Berlent Industries and Berlent played an integral and essential role in the fraud perpetrated upon the Duval plaintiffs in that the Berlent-Duval appraisal justified the inflated price the partnership was to pay for the Duval equipment and provided the limited partners with "independent" substantiation for the assumptions in the Duval offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value after the expiration of the end-user leases from which the partnership would derive bonus rentals. Berlent Industries and Berlent were or should have been aware that the Berlent-Duval appraisal would be disseminated to prospective investors in Duval Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Berlent-Duval appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Duval equipment.

f. In addition to his role as a packager, defendant Ward was also the master tape appraiser for the Duval partnership. In this capacity, he prepared a written appraisal of the KIBS master tape, on or about August 30, 1979 (hereinafter the "Ward-Duval appraisal"), which appeared in the Duval offering memorandum, and which represented that the fair market value of the KIBS master tape to be purchased from KMI and leased to Kirby Computer was in excess of $2 million, and that it had a useful life in excess of seven years. This appraisal also represented that representatives of the Data General Corporation would be actively engaged in marketing the KIBS master tape. This appraisal also represented that the purchase price that the Duval partnership was paying for the KIBS master tape was equal or close to its appraised fair market value. This appraisal also represented that defendant Ward had met with the management of Kirby Computer and KMI and had reviewed in detail the operation of the KIBS master tape. Ward played an integral and essential role in the fraud perpetrated upon the Duval plaintiffs in that the Ward-Duval appraisal justified the inflated price the partnership was to pay for the KIBS master tape and provided the limited partners with "independent" substantiation for the assumptions in the Duval offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the KIBS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least seven years. Ward was or should have been aware that the Ward-Duval appraisal would be disseminated to prospective investors in Duval Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Ward-Duval appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value and useful life of the KIBS master tape.

g. Defendant Lampf was the general or special tax counsel for the Duval partnership. In this capacity, Lampf issued a special written tax opinion for the Duval partnership, in or about October 1979 (hereinafter "the Lampf tax opinion"), which it knew would appear in the Duval offering memorandum, and upon which it knew potential investors, including the Duval plaintiffs, would rely in making their investment in Duval Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax benefits to limited partners who had invested capital in Duval Associates, as more particularly alleged in paragraph 7d. Lampf was paid at least

$20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Duval offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the Duval partnership agreement and sale lease agreements were based.

35. Beginning in or around September 1979, and continuing to the present, the Duval defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Duval plaintiffs in connection with the sale of limited partnership interests in Duval Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Duval computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Duval investors, as more particularly alleged in paragraph 7d, in addition to income and profits.

36. The Duval plaintiffs were induced to invest in Duval Associates by means of an offering memorandum dated September 10, 1979, and a supplemental offering memorandum dated October 26, 1979 (hereinafter collectively "the Duval offering memorandum"), which included the Lampf tax opinion, the Berlent-Duval appraisal, and the Ward-Duval appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 34b above, the end users that were purportedly already leasing this equipment, as described in paragraph 34c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 34b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 34e and f above, and the tax benefits

and profits to be derived from investing in the partnership, as described in paragraph 7d above.

37. The Duval offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Duval partnership had been, or would be, involved.

38. In connection with the sale of interests in Duval Associates to the Duval plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial profits resulting from fees generated from licensing KIBS master tape and from the lease income and residual value in the Duval equipment.

b. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws.

c. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that the KIBS master tape program was ready to be marketed in its then-existing format and would readily achieve a significant market share in its target market.

d. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the KIBS master tape program was tangible, new, original, and previously unexploited property, and therefore qualified for investment tax credit.

e. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that Kirby Computer and KMI, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the KIBS master tape and thereby generate revenues for the Duval partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership.

f. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that Ward had met with the management of Kirby Computer and KMI and had become familiar with the operation of the KIBS program.

g. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Berlent Industries and Berlent, in the Berlent-Duval appraisal, represented that the fair market value, residual value, and useful life attributed to the Duval equipment were reasonable and accurate.

h. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that the fair market value and useful life attributed to the KIBS master tape were reasonable and accurate.

i. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the parties involved in the Duval sale and lease transactions had no conflicts of interest not disclosed in the Duval offering memorandum.

39. These representations were false and misleading in that:

a. The profits promised in the Duval offering memorandum and in the Lampf tax opinion could not be realized by the Duval plaintiffs.

b. The actual fair market value, residual value, and useful life of the Duval equipment were substantially less than represented.

c. The actual fair market value and useful life of the KIBS master tape were substantially less than represented.

d. The KIBS master tape was not readily marketable in its target market without substantial modifications in format.

e. On information and belief, the KIBS master tape program was not tangible, new, original, or previously unexploited properly, and therefore not qualified for investment tax credit.

f. KMI and Kirby Computer did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the KIBS master tape.

g. On information and belief, before issuing the Ward-Duval appraisal, Ward had not met with the management of Kirby Computer and KMI, and had not tested or run the KIBS program and was not familiar with its operation.

h. Ward was a principal of defendant LCI, and therefore had conflicts of interest not disclosed in the Duval offering memorandum.

40. In making the representations described above, the following Duval defendants failed to disclose the following material facts to the Duval plaintiffs:

a. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the actual fair market value, residual value, and useful life of the Duval equipment were substantially less than represented in the Duval offering memorandum and in the Berlent-Duval appraisal;

b. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the Duval equipment was already or would likely become obsolete shortly after it was purchased by the Duval partnership in that IBM had announced the introduction of new, better systems that would render the Duval equipment obsolete;

c. The packagers, Lampf, and Ward failed to disclose that the actual fair market value and useful life of the KIBS master tape were substantially less than represented in the Duval offering memorandum and in the Ward-Duval appraisal;

d. The packagers, Lampf, and Ward failed to disclose that the Ward-Duval appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

e. The packagers, Lampf, and Ward failed to disclose that before issuing the Ward-Duval appraisal, Ward had not met with the management of Kirby Computer and KMI, had not tested or run the KIBS program and was not familiar with its contents and operation, and had not adequately researched the marketability of the KIBS master tape;

f. The packagers, Lampf, and Ward failed to disclose that the KIBS master tape was not readily marketable in its target market without substantial modifications in format;

g. The packagers, Lampf, and Ward, failed to disclose that, in order to achieve the market share projected in the Ward-Duval appraisal, the expenses of marketing the KIBS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

h. The packagers and Lampf failed to disclose that Ward was a principal in defendant LCI, and therefore had

conflicts of interest not disclosed in the Duval offering memorandum;

i. The packagers, Lampf, and Ward failed to disclose that Kirby Computer and KMI were undercapitalized and without sufficient skill, expertise, and personnel to market and license the KIBS master tape and generate revenues for the partnership; and

j. The packagers, Lampf, CSC, Alanthus Computer, Berlent Industries, and Berlent failed to disclose that the Duval plaintiffs would not and could not obtain title to the Duval equipment because of the terms and nature of a preexisting transaction involving the Duval equipment.

41. Defendants Berlent, Berlent Industries, Ward, CSC, Alanthus Computer, KMI, Kirby Computer, and Kirby aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Duval partnership and their actions in furtherance of these roles, as described in paragraphs 34b-f above, were essential components of the fraud perpetrated on the Duval plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Duval plaintiffs.

42. Beginning in and around September 1979, and continuing until the present, the Duval defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around February 1980, the packager defendants arranged for The Lawrence Group to be engaged to act as consultant to the partnership and continually assured and represented to the Duval plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Duval equipment lease were current and that diligent efforts were being made to market and obtain licensees for the KIBS master tape when, in fact, equipment lease payments owed to the partnership were

sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

43. The Duval plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Duval defendants, as described herein. The Duval plaintiffs had no reason to believe that the Duval defendants omitted to state material facts, as described herein. The Duval plaintiffs were not aware of the true facts or the facts that the Duval defendants omitted to state. The Duval plaintiffs were entitled to and did rely on the Duval defendants' representations, as described herein, and would not have purchased any interests in the Duval limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

44. The Duval plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

45. The Duval plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Duval plaintiffs and concealed the fraud alleged herein by means of the affirmative acts described in paragraph 8 and 42 above. If the Duval plaintiffs or their agents knew of any facts potentially giving rise to the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 42 above, led them, under the circumstances described herein,

to disregard those facts and to reasonably believe that they did not have a claim for relief.

46. The Duval plaintiffs hereby tender their limited partnership interests to the Duval defendants.

* * *

COUNT II

(1934 Securities Exchange Act - Section 10(b))

53. The Duval plaintiffs reallege and incorporate by reference paragraphs 1-46 above.

54. In connection with the sale of limited partnership interests in Duval Associates, defendants LCA, LCI, McKenna, Wellbrock, Heitmeyer, Ward, and Lampf (the "Duval primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Duval plaintiffs, made untrue statements of material fact, as described in paragraphs 38-39 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 40 above, and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Duval plaintiffs.

55. The Duval primary violators, and each of them, knew of the falsity of the representations described in paragraph 38 above, or recklessly failed to ascertain the truth of the representations. The Duval primary violators knew of the omissions of material fact described in paragraph 40 above, or recklessly failed to disclose these facts.

56. Defendants CSC, Alanthus Computer, Berlent, Berlent Industries, Ward, KMI, Kirby, and Kirby Computer (the "Duval aiders and abettors") knew that their actions,

as described in paragraphs 34b-f and 41 above, furthered and provided substantial assistance to the Duval primary violators in committing a fraud on the Duval plaintiffs.

57. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

58. As a result of these acts, the Duval plaintiffs are entitled to recover damages equal to all sums paid for their investments, together with interest thereon since the date paid.

* * *

SECOND CLAIM FOR RELIEF - LaMAR ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the LaMar plaintiffs.

106. The LaMar plaintiffs reallege and incorporate by reference paragraphs 1-31 above.

107. The following plaintiffs invested in the LaMar Associates limited partnership in the amount and on the date indicated below. They shall be referred to herein as the "LaMar plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Dale R. Peterson	12/25/79	$31,971
Harlan C. Selby	12/20/79	31,971

108. The following defendants participated in the LaMar partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "LaMar defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the LaMar partnership and were responsible for, among other things, the following:

(1) Creating a Connecticut limited partnership, which was subsequently renamed LaMar Associates;

(2) Conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) Soliciting and arranging for the installation of a general partner for the partnership;

(4) Soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) Soliciting and procuring other LaMar defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) Soliciting and procuring the services of defendant Lampf to: act as general or special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the LaMar offering memorandum was based, and prepare, print and distribute a model partnership agreement and model sales and lease agreements on which the LaMar partnership agreement and sales and lease agreements were based; and

(7) Instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. Defendant CSC was the immediate seller for the LaMar partnership. As described in paragraph 6a above, in this capacity, CSC was the entity which purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "LaMar equipment") purportedly consisted of an IBM 370/168 CPU and approximately seven pieces of IBM peripheral equipment. The LaMar partner-

ship was to pay a total of $1,726,750 for this equipment. The master tape was of a software program known as Automated Information Display System ("AID"), which was purportedly specially designed for use by emergency response organizations, such as police and fire departments, and was purportedly readily marketable to such organizations. The LaMar partnership was to pay a total of $2.45 million for this master tape. CSC played an integral and essential role in the fraud perpetrated upon the LaMar plaintiffs in that, by purchasing the LaMar equipment and the AID master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the LaMar partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. CSC was or should have been aware of its integral role in the LaMar offering and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself, and with knowledge or reason to know that the equipment and master tape would be used by the packagers in a limited partnership offering. CSC knew or should have known its equipment and master tape transactions described herein would be used to induce these investors to invest in the partnership, and that these investors would rely upon the terms of these transactions in making their investment decisions and to substantiate, for tax purposes, the fair market value, useful life, title and residual value of the equipment, and the fair market value and useful life of the master tape.

c. Defendant Alanthus was the equipment seller/lessee for the LaMar partnership. As described in paragraph 6a above, in this capacity, Alanthus was the entity that sold

the IBM equipment to the immediate seller, CSC, for resale to the LaMar partnership, and then leased the equipment back from the partnership. Alanthus was also the entity that had, purportedly, previously leased the equipment to the end user, which was represented to be Associated Hospital Service, Inc., an affiliate of Blue Cross of Wisconsin, and was to re-lease the equipment to a subsequent end user when the existing user lease expired. Alanthus played an integral and essential role in the fraud perpetrated upon the LaMar plaintiffs in that, by selling the LaMar equipment to CSC for resale to the LaMar partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that CSC had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Alanthus also added credence to the reasonableness of the end-user lease terms described in the LaMar offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Alanthus also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end-user lease, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Alanthus was or should have been aware of its integral role in the LaMar offering and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself, and with knowledge or reason to know that the equipment would be used by the packagers in a limited partnership offering. Alanthus knew or should have known the equipment transactions described herein would be used to induce these investors to invest in the partnership, and that the investors would rely on

the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value, title, useful life, and residual value of the equipment.

d. Defendant Digitize was the master tape lessee for the LaMar partnership. As described in paragraph 6b above, in this capacity, Digitize was the entity that leased the AID master tape back from the LaMar partnership and was to market and obtain licensees for the use of the master tape. Defendant Robrech was an affiliate of Digitize and was the master tape seller for the LaMar partnership. As described in paragraph 6b above, in this capacity, Robrech was the entity that sold the AID master tape to CSC, the immediate seller, for resale to the LaMar partnership. Digitize and/or Robrech had purportedly developed the AID software program and had purported expertise in marketing the AID master tape. On information and belief, Digitize and/or Robrech were formed solely for purposes of participating in the LaMar partnership. Robrech played an integral and essential role in the fraud perpetrated upon the LaMar plaintiffs in that, by selling the AID master tape to CSC for resale to the partnership, it made the purchase price of the tape appear reasonable by making it appear as if CSC had purchased the tape from an independent third party in an arm's length, negotiated transaction. Digitize played an integral and essential role in the fraud perpetrated upon the LaMar plaintiffs in that, by virtue of its purported expertise in the AID software program and in the marketing of this software, it appeared capable of successfully exploiting the AID master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Robrech and Digitize were or should have been aware of their integral role in the LaMar offering and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves, and with knowledge or reason to know that the AID master tape would be used by the packagers in a limited partnership offering. Robrech and Digitize knew or should have known that the AID master tape transactions described herein would be used to induce the investors to invest in the partnership, and that investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the AID master tape.

e. Defendant Berlent Industries was the equipment appraiser for the LaMar partnership. Defendant Berlent was the president and controlling person of Berlent Industries. Defendant Berlent Industries and Berlent prepared a written appraisal of the LaMar equipment, on or about November 6, 1979 (hereinafter "the Berlent-LaMar appraisal"), which appeared in the LaMar offering memorandum, and which represented that the current fair market value for the LaMar equipment was $1.85 million, that it had a useful life in excess of nine years, and that at the end of nine years, it would have a residual value of $420,000. Berlent Industries and Berlent played an integral and essential role in the fraud perpetrated upon the LaMar plaintiffs in that the Berlent-LaMar appraisal justified the inflated price the partnership was to pay for the LaMar equipment and provided the limited partners with "independent" substantiation for the assumptions in the LaMar offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end-user lease, from which the partnership would derive bonus rentals. Berlent Industries and Berlent were or should have been aware that the Berlent-LaMar appraisal would be disseminated to prospective investors in LaMar Associates and would be used to induce these investors to invest in the partnership, and that these investors

would rely upon the Berlent-LaMar appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the LaMar equipment.

f. In addition to his role as a packager, defendant Ward was also the master tape appraiser for the LaMar partnership. In this capacity, he prepared a written appraisal of the AID master tape, on or about November 26, 1979 (hereinafter "the Ward-LaMar appraisal"), which appeared in the LaMar offering memorandum, and which represented that the fair market value of the AID master tape to be purchased from Robrech and leased to Digitize was in excess of $2.5 million, and that its useful life was at least seven years. This appraisal also represented that the purchase price that the LaMar partnership was paying for the AID master tape was equal or close to this appraisal fair market value. This appraisal also represented that defendant Ward had met with the management, sales, and technical staff of Robrech and Digitize, had reviewed in detail the contents of the AID master tape, and had conducted independent market research into the target market for the KIBS master tape. Ward played an integral and essential role in the fraud perpetrated upon the LaMar plaintiffs in that the Ward-LaMar appraisal justified the inflated price the partnership was to pay for the AID master tape and provided the limited partners with "independent" substantiation for the assumptions in the LaMar offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the AID master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least seven years. Ward was or should have been aware that the Ward-LaMar appraisal would be disseminated to prospective investors in LaMar Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Ward-LaMar appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the AID master tape.

g. Defendant Lampf was the general or special tax counsel for the LaMar partnership. In this capacity, Lampf issued a special written tax opinion for the LaMar partnership, in or about December 1979 (hereinafter "the Lampf tax opinion"), which it knew would appear in the LaMar offering memorandum, and upon which it knew potential investors, including the LaMar plaintiffs, would rely in making their investments in LaMar Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax benefits to limited partners who had invested capital in LaMar Associates, as more particularly alleged in paragraph 7d. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the LaMar offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the LaMar partnership agreement and sales and lease agreements were based.

109. Beginning in or around November 1979, and continuing to the present, the LaMar defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the LaMar plaintiffs in connection with the sale of limited partnership interests in LaMar Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the LaMar computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the LaMar investors, as more particularly alleged in paragraph 7d, in addition to income and profits.

110. The LaMar plaintiffs were induced to invest in LaMar Associates by means of an offering memorandum

dated November 30, 1979 (hereinafter "the LaMar offering memorandum"), which included the Lampf tax opinion, the Berlent-LaMar appraisal, and the Ward-LaMar appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 108b above, the end user that was purportedly already leasing this equipment, as described in paragraph 108c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 108b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 108e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above.

111. In connection with the sale of interests in LaMar Associates to the LaMar plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial profits resulting from fees generated from licensing the AID master tape and from the lease income and residual value in the LaMar equipment.

b. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws.

c. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that the AID master tape program was ready to market in its then-existing format and would readily achieve a substantial market share in its target market.

d. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the AID master tape program was tangible, new, original, and previously unexploited property, and therefore qualified for investment tax credit.

e. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that Digitize and Robrech, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the AID master tape and thereby generate revenues for the LaMar partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership.

f. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that Ward had met with the management and staff of Robrech and Digitize, had become familiar with the contents of the AID program, and had conducted independent research into the marketability of the AID master tape.

g. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Berlent Industries and Berlent, in the Berlent-LaMar appraisal, represented that the residual value and useful life attributed to the LaMar equipment were reasonable and accurate.

h. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that the fair market value and useful life attributed to the AID master tape were reasonable and accurate.

i. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the parties involved in the LaMar sale and lease trans-

actions had no conflicts of interest not disclosed in the LaMar offering memorandum.

112. These representations were false and misleading in that:

a. The profits promised in the LaMar offering memorandum and in the Lampf tax opinion could not be realized by the LaMar plaintiffs.

b. The actual residual value and useful life of the LaMar equipment were substantially less than represented.

c. The actual fair market value and useful life of the AID master tape were substantially less than represented.

d. The AID master tape was not readily marketable in its target market without substantial modifications in format.

e. On information and belief, the AID master tape program was not tangible, new, original, or previously unexploited property, and therefore not qualified for investment tax credit.

f. Robrech and Digitize did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the AID master tape.

g. On information and belief, before issuing the Ward-LaMar appraisal, Ward had not met with the management and staff of Robrech and Digitize, had not tested or run the AID program and was not familiar with its contents and operation, and had not independently or thoroughly researched the marketability of the AID master tape.

h. Ward was a principal in defendant LCI, and therefore had conflicts of interest not disclosed in the LaMar offering memorandum.

113. In making the representations described above, the following LaMar defendants failed to disclose the following material facts to the LaMar plaintiffs:

a. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the actual residual value and useful life of the LaMar equipment were substantially less than represented in the LaMar offering memorandum and in the Berlent-LaMar appraisal;

b. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the LaMar equipment was already or would likely become obsolete shortly after it was purchased by the LaMar partnership in that IBM had announced the introduction of new, better systems that would render the LaMar equipment obsolete;

c. The packagers, Lampf, and Ward failed to disclose that the actual fair market value and useful life of the AID master tape program were substantially less than represented in the LaMar offering memorandum and in the Ward-LaMar appraisal;

d. The packagers, Lampf, and Ward failed to disclose that the Ward appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

e. The packagers, Lampf, and Ward failed to disclose that before issuing the Ward-LaMar appraisal, Ward had not met with the management and staff of Robrech and Digitize, had not tested or run the AID program and was not familiar with its contents and operation, and had not independently or adequately researched the marketability of the AID master tape;

f. The packagers, Lampf, and Ward failed to disclose that, in order to achieve the market share projected in the Ward-LaMar appraisal, the expenses of marketing the AID master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

g. The packagers and Lampf failed to disclose that Ward was a principal in defendant LCI and therefore had conflicts of interest not disclosed in the LaMar offering memorandum;

h. The packagers, Lampf, and Ward failed to disclose that Robrech and Digitize were undercapitalized and without sufficient skill, expertise, and personnel to market and license the AID master tape and generate revenues for the partnership;

i. The packagers, Lampf, and Ward failed to disclose that the AID master tape was not readily marketable in its target market without substantial modifications in format; and

j. The packagers, Lampf, CSC, Alanthus Computer, Berlent Industries, and Berlent failed to disclose that the LaMar plaintiffs would not and could not obtain title to the LaMar equipment because of the terms and nature of a preexisting transaction involving the LaMar equipment.

114. Defendants Berlent, Berlent Industries, Ward, CSC, Alanthus, Robrech, and Digitize aided and abetted in the misrepresentations and omissions alleged above in that their roles in the LaMar partnership and their actions in furtherance of these roles, as described in paragraphs 108b-f above, were essential components of the fraud perpetrated on the LaMar plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the LaMar plaintiffs.

115. Beginning in and around November 1979, and continuing until the present, the LaMar defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around April 1980, the packager defendants arranged for The Lawrence Group to be engaged to act as consultant to the partnership and continually assured and represented to the LaMar plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the LaMar equipment lease were current and that diligent efforts were being made to market and obtain licensees for the AID master tape when, in fact, equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

116. The LaMar plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the LaMar defendants, as described herein. The LaMar plaintiffs had no reason to believe that the LaMar defendants omitted to state material facts, as described herein. The LaMar plaintiffs were not aware of the true facts or the facts that the LaMar defendants omitted to state. The LaMar plaintiffs were entitled to and did rely on the LaMar defendants' representations, as described herein, and would not have purchased any interests in the LaMar limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

117. The LaMar plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

118. The LaMar plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did

mislead the LaMar plaintiffs and concealed the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 115 above. If the LaMar plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 115 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

119. The LaMar plaintiffs hereby tender their limited partnership interests to the LaMar defendants.

• • •

COUNT II

(1934 Securities Exchange Act - Section 10(b))

126. The LaMar plaintiffs reallege and incorporate by reference paragraphs 1-31 and 107-119 above.

127. In connection with the sale of the limited partnership interests in LaMar Associates, defendants LCA, LCI, McKenna, Wellbrock, Heitmeyer, Ward, and Lampf (the "LaMar primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the LaMar plaintiffs, made untrue statements of material fact, as described in paragraphs 111-112 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading as described in paragraph 113 above, and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the LaMar plaintiffs.

128. The LaMar primary violators, and each of them, knew of the falsity of the representations described in paragraph 111 above, or recklessly failed to ascertain the

truth of the representations. The LaMar primary violators knew of the omissions of material fact described in paragraph 113 above, or recklessly failed to disclose these fact.

129. Defendants CSC, Alanthus, Berlent, Berlent Industries, Ward, Robrech, and Digitize (the "LaMar aiders and abettors") knew that their actions, as described in paragraphs 108b-f and 114 above, furthered and provided substantial assistance to the LaMar primary violators in committing a fraud on the LaMar plaintiffs.

130. These defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

131. As a result of these acts, the LaMar plaintiffs are entitled to recover damages equal to all sums paid for their investments, together with interest thereon since the date paid.

• • •

THIRD CLAIM FOR RELIEF - MT. HOOD ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Mt. Hood plaintiffs.

187. The Mt. Hood plaintiffs reallege and incorporate by reference paragraphs 1-31 above.

188. The following plaintiffs invested in the Mt. Hood Associates limited partnership in the amounts and on the dates indicated below. They shall be referred to herein as the "Mt. Hood plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Dale R. Peterson	9/16/80	$61,610
Earl D. Riddle	9/18/80	30,805
Harlan C. Selby	9/17/80	30,805
Nickolas J. Madesh	9/23/80	30,805
Robert A. Graham	9/17/80	30,805
Jerry E. Marks	9/22/80	30,805
Clifford B. Alterman	9/19/80	30,805
Ruth Beecher	9/15/80	30,805
Howard H. Overback	9/23/80	30,805
John v. Reitz	9/23/80	30,805
Theodore and Edith Trykar	9/15/80	30,805
Floyd E. Hambleton	9/12/80	30,805
Ward E. Moore	9/80	30,805

189. The following defendants participated in the Mt. Hood Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Mt. Hood defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Mt. Hood partnership and were responsible for, among other things, the following:

(1) Creating a Connecticut limited partnership, which was subsequently renamed Mt. Hood Associates;

(2) Conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) Soliciting and arranging for the installation of a general partner for the partnership;

(4) Soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) Soliciting and procuring other Mt. Hood defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) Soliciting and procuring the services of defendant Lampf to: act as special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Mt. Hood offering memorandum was based and prepare, print, and distribute a model partnership agreement and model sales and lease agreements on which the Mt. Hood partnership agreement and sales and lease agreements were based; and

(7) Instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. Defendant ACE was the immediate seller for the Mt. Hood partnership. As described in paragraph 6a above, in this capacity, ACE was the entity which purchased the IBM equipment and the master tape from the equipment seller and master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Mt. Hood equipment") purportedly consisted of an IBM 370/158 CPU and approximately 26 pieces of IBM peripheral equipment. The Mt. Hood partnership was to pay a total of $1.75 million for this equipment. The master tape was of a software program known as the P-Stat Preprocessor Program ("P-STAT"), which was purportedly specially designed to allow computer programs written in the Fortran language to be economically adapted for use on most makes of computers, and was purportedly readily marketable for that function to major companies and other businesses using several different makes of computers. The Mt. Hood partnership was to pay a total of $2.3 million for this master tape. ACE played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by purchasing the Mt. Hood equipment and P-STAT master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Mt. Hood partnership, it obscured the original purchase price of the equipment and

master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. ACE was or should have been aware of its integral role in the Mt. Hood offering and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself, and with knowledge or reason to know that the equipment and master tape would be used by the packagers in a limited partnership offering. ACE knew or should have known its equipment and master tape transactions described herein would be used to induce these investors to invest in the partnership, and that these investors would rely upon the terms of these transactions in making their investment decisions and to substantiate, for tax purposes, the fair market value, useful life, title and residual value of the equipment, and the fair market value and useful life of the master tape.

c. Defendant Analysis was the equipment seller/lessee for the Mt. Hood Associates partnership. As described in paragraph 6a above, in this capacity, Analysis was the entity that sold the IBM equipment to the immediate seller, ACE, for resale to the Mt. Hood partnership, and then leased the equipment back from the partnership. Analysis was also the entity that had, purportedly, previously leased the Mt. Hood equipment to the end user, which was represented to be the Russell Corporation, and was to release the equipment to a subsequent end user when the existing user lease expired. Defendant Anico was the parent corporation and a controlling person of Analysis. Defendants Hernandez and Chandler were officers and controlling persons of Analysis. Analysis played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by selling the Mt. Hood equipment to ACE for resale to the Mt. Hood partnership, it further

obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that ACE had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Analysis also added credence to the reasonableness of the end-user lease terms described in the Mt. Hood offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Analysis also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end-user lease, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnerhip had to seek its own lessees. Analysis was or should have been aware of its integral role in the Mt. Hood offering and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself, and with knowledge or reason to know that the equipment would be used by the packagers in a limited partnership offering. Analysis knew or should have known the equipment transactions described herein would be used to induce these investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value, title, useful life, and residual value of the equipment.

d. Defendant P-Stat was the master tape lessee for the Mt. Hood partnership. As described in paragraph 6b above, in this capacity, P-Stat was the entity that leased the P-STAT master tape back from the Mt. Hood partnership and was to market and obtain licensees for the use of the master tape. Defendant P-Stat was an affiliate of Buhler Software, which was the master tape seller for the Mt. Hood partnership. As described in paragraph 6b

above, in this capacity, Buhler Software was the entity that sold the P-STAT master tape to ACE, the immediate seller, for resale to the Mt. Hood partnership. Defendant Buhler was the owner and controlling person of Buhler Software and P-Stat. Buhler Software, P-Stat and/or Buhler had purportedly developed the P-Stat software program and had purported expertise in marketing the P-STAT master tape. On information and belief, Buhler formed Buhler Software and/or P-Stat solely for purposes of participating in the Mt. Hood partnership. Buhler Software and Buhler played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by selling the P-STAT master tape to ACE for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if ACE had purchased the tape from an independent third party in an arm's length, negotiated transaction. P-Stat and Buhler played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by virtue of their purported expertise in the P-Stat software program and in the marketing of this software, they appeared capable of successfully exploiting the P-STAT master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Buhler Software, P-Stat, and Buhler were or should have been aware of their integral role in the Mt. Hood offering and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves, and with knowledge or reason to know that the P-STAT master tape would be used by the packagers in a limited partnership offering. Buhler Software, P-Stat, and Buhler knew or should have known that the P-STAT master tape transactions described herein would be used to induce the investors to invest in the partnership, and that investors would rely

on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the P-STAT master tape.

e. Defendant Texcom was the equipment appraiser for the Mt. Hood partnership. Defendant Johnson was the president, owner, and controlling person of Texcom. Defendants Texcom and Johnson prepared a written appraisal of the Mt. Hood equipment, on or about July 31, 1980 (hereinafter "the TexCom appraisal"), which appeared in the Mt. Hood offering memorandum, and which represented that the Mt. Hood equipment had a fair market value of $1.8 million, had a useful life in excess of nine years, and would have a residual value at the end of nine years in excess of $360,000. Texcom and Johnson played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that the Texcom appraisal justified the inflated price the partnership was to pay for the Mt. Hood equipment and provided the limited partners with "independent" substantiation for the assumptions in the Mt. Hood offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end-user lease, from which the partnership would derive bonus rentals. Texcom and Johnson were or should have been aware that the Texcom appraisal would be disseminated to prospective investors in Mt. Hood Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Texcom appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Mt. Hood equipment.

f. Defendant ConServ was the master tape appraiser for the Mt. Hood partnership. Defendant Steinberger was the president and controlling person of ConServ.

Defendants ConServ and Steinberger prepared a written appraisal of the P-STAT master tape, on or about August 1, 1980 (hereinafter "the ConServ appraisal"), which appeared in the Mt. Hood offering memorandum, and which represented that the fair market value of the P-STAT master tape to be purchased from Buhler Software and leasd to P-Stat was in excess of $2.4 million, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Mt. Hood partnership was paying for the P-STAT master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Steinberger had met with the management and technical staff of Buhler Software and P-Stat, had examined in detail the contents of the P-STAT master tape, and had discussed with Buhler Software and P-STAT the underlying objective of the P-Stat program, its current development and operational status, and the market segment that could benefit from licensing the P-STAT master tape. ConServ and Steinberger played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that the ConServ appraisal justified the inflated price the partnership was to pay for the P-STAT master tape and provided the limited partners with "independent" substantiation for the assumptions in the Mt. Hood offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the P-STAT master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least nine years. ConServ and Steinberger were or should have been aware that the ConServ appraisal would be disseminated to prospective investors in Mt. Hood Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the ConServ appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the P-STAT master tape.

g. Defendant Lampf was the special tax counsel for the Mt. Hood partnership. In this capacity, Lampf issued a special written tax opinion for the Mt. Hood partnership, in or about October 1980 (hereinafter "the Lampf tax opinion"), which it knew would appear in the Mt. Hood offering memorandum, and upon which it knew potential investors, including the Mt. Hood plaintiffs, would rely in making their investment in Mt. Hood Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax benefits to limited partners who had invested capital in Mt. Hood Associates, as more particularly alleged in paragraph 7d. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Mt. Hood offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the Mt. Hood Associates partnership agreement and sales and lease agreements were based.

190. Beginning in or around August 1980, and continuing to the present, the Mt. Hood defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Mt. Hood plaintiffs in connection with the sale of limited partnership interests in Mt. Hood Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Mt. Hood computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Mt. Hood investors, as more particularly alleged in paragraph 7d, in addition to income and profits.

191. The Mt. Hood plaintiffs were induced to invest in Mt. Hood Associates by means of an offering memorandum dated August 1, 1980 (hereinafter "the Mt. Hood offering

memorandum"), which included the Lampf tax opinion, the Texcom appraisal, and the ConServ appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 189b above, the end user that was purportedly already leasing this equipment, as described in paragraph 189c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 189b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 189e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Steinberger, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership. This offering memorandum also stated that defendant Lampf had acted in the past, and anticipated acting in the future, as counsel to other partnerships in which some or all of the participants in the Mt. Hood partnership had been, or would be, involved.

192. In connection with the sale of interests in Mt. Hood Associates to the Mt. Hood plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial profits resulting from fees generated from licensing the P-STAT master tape and from the lease income and residual value in the Mt. Hood equipment.

b. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement

to tax benefits and the legitimacy of the program under existing applicable laws.

c. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the Mt. Hood equipment existed, was specifically identified, and was already under lease to the Russell corporation on terms that would provide sufficient income to cover the lease payments to the seller.

d. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the ConServ appraisal, represented that the P-STAT master tape program was ready to market in its then-existing format and would readily achieve a significant market share in its target market.

e. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the P-STAT master tape progra n was tangible, new, original, and previously unexploited property, and therefore qualified for investment tax credit.

f. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the ConServ appraisal, represented that P-Stat and Buhler Software, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the P-STAT master tape and thereby generate revenues for the Mt. Hood partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership.

g. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the ConServ appraisal, represented that Steinberger had met with the management and staff of Buhler Software and P-STAT, and had become familiar

with the contents and operation of the P-Stat program and the marketing potential of the P-Stat master tape.

h. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and Texcom and Johnson, in the Texcom appraisal, represented that the fair market value, residual value, and useful life attributed to the Mt. Hood equipment were reasonable and accurate.

i. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the ConServ appraisal, represented that the fair market value and useful life attributed to the P-STAT master tape were reasonable and accurate.

193. These representations were false and misleading in that:

a. The IBM computer equipment described in the Mt. Hood offering memorandum did not exist or was not under lease to the end user, the Russell corporation, as represented.

b. The profits promised in the Mt. Hood offering memorandum and in the Lampf tax opinion could not be realized by the Mt. Hood plaintiffs.

c. The actual fair market value, residual value, and useful life of the Mt. Hood equipment were substantially less than represented.

d. The actual fair market value and useful life of the P-STAT master tape were substantially less than represented.

e. The P-STAT master tape was not readily marketable in its target market without substantial modifications in format.

f. On information and belief, the P-STAT master tape program was not tangible, new, original, or previously unexploited property, and therefore not qualified for investment tax credit.

g. Buhler Software and P-Stat, did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the P-STAT master tape.

h. On information and belief, before issuing the ConServ appraisal, Steinberger was not familiar with the P-Stat program contents and operation, and had not thoroughly investigated the marketability of the P-STAT master tape.

194. In making the representations described above, the following Mt. Hood defendants failed to disclose the following material facts to the Mt. Hood plaintiffs:

a. The packagers and Lampf failed to disclose that the IBM equipment described in the Mt. Hood offering memorandum was not in fact the equipment owned by ACE or Analysis and purchased by the partnership;

b. The packagers and Lampf failed to disclose that the IBM equipment described in the Mt. Hood offering memorandum was not currently under lease to the Russell Corporation, the purported end user;

c. The packagers, Lampf, Texcom, and Johnson failed to disclose that the actual fair market value, residual value, and useful life of the Mt. Hood equipment were substantially less than represented in the Mt. Hood offering memorandum and in the Texcom appraisal;

d. The packagers, Lampf, Texcom, and Johnson failed to disclose that they had not performed any investigation to examine the equipment or to verify its existence and condition;

e. The packagers, Lampf, Texcom, and Johnson failed to disclose that the Mt. Hood IBM equipment was essentially obsolete at the time it was purchased by the Mt. Hood partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

f. The packagers, Lampf, ConServ, and Steinberger failed to disclose that the actual fair market value and useful life of the P-STAT master tape were substantially less than represented in the Mt. Hood offering memorandum and in the ConServ appraisal;

g. The packagers, Lampf, ConServ, and Steinberger failed to disclose that the ConServ appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

h. The packagers, Lampf, ConServ, and Steinberger failed to disclose that before issuing the ConServ appraisal, Steinberger had not adequately investigated the marketability of the P-STAT master tape;

i. The packagers, Lampf, ConServ, and Steinberger failed to disclose that, in order to achieve the market share projected in the ConServ appraisal, the expenses of marketing the P-STAT master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

j. The packagers, Lampf, ConServ, and Steinberger failed to disclose that Buhler Software and P-Stat were undercapitalized and without sufficient skill, expertise, and personnel to market and license the P-STAT master tape and general revenues for the partnership;

k. The packagers, Lampf, ConServ, and Steinberger failed to disclose that the P-STAT master tape was not readily marketable in its target market without substantial modifications in format; and

l. The packagers, Lampf, ACE, Analysis, Texcom, and Johnson failed to disclose that the Mt. Hood plaintiffs would not and could not obtain title to the Mt. Hood equipment because of the terms and nature of preexisting transactions involving the Mt. Hood equipment.

195. Defendants Johnson, Texcom, ConServ, Steinberger, ACE, Analysis, Hernandez, Chandler, Anico, Buhler Software, P-Stat, and Buhler aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Mt. Hood partnership and their actions in furtherance of these roles, as described in paragraphs 189b-f above, were essential components of the fraud perpetrated on the Mt. Hood plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Mt. Hood plaintiffs.

196. Beginning in and around August 1980, and continuing until the present, the Mt. Hood defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around February 1981, the packager defendants arranged for Mr. Steinberger to be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Mt. Hood plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Mt. Hood equipment lease were current and that diligent efforts were being made to market and obtain licensees for the P-STAT master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

197. In or around August 1982, the Mt. Hood partnership sought to rescind its purchase of the P-STAT master tape because efforts to obtain licensees for the master tape had not been as successful as hoped. In or around October 1982, in connection with this rescission and in an effort to mislead the Mt. Hood limited partners and to conceal

the fraud alleged herein, the packagers and/or their attorney, Michael Dell, represented to and assured the attorneys for the Mt. Hood partnership, Burt & Hagen, P.C., that the marketing difficulties encountered by the master tape marketers were the result of unforeseen circumstances and that the packagers stood behind the representations in the Mt. Hood offering memorandum. In a further effort to lull the Mt. Hood limited partners and to conceal the fraud alleged herein, the packagers arranged for the seller of the P-STAT master tape to repurchase the tape at no loss to the partnership, and procured a substitute real estate investment for the partnership.

198. The Mt. Hood plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Mt. Hood defendants, as described herein. The Mt. Hood plaintiffs had no reason to believe that the Mt. Hood defendants omitted to state material facts, as described herein. The Mt. Hood plaintiffs were not aware of the true facts or the facts that the Mt. Hood defendants omitted to state. The Mt. Hood plaintiffs were entitled to and did rely on the Mt. Hood defendants' representations, as described herein, and would not have purchased any interests in the Mt. Hood limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

199. The Mt. Hood plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

200. The Mt. Hood plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Mt. Hood plaintiffs and conceal the

fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 196-197 above. If the Mt. Hood plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 196-197 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

201. The Mt. Hood plaintiffs hereby tender their limited partnership interests to the Mt. Hood defendants.

• • •

COUNT II

(1934 Securities Exchange Act - Section 10(b))

208. The Mt. Hood plaintiffs reallege and incorporate by reference paragraphs 1-31 and 188-201 above.

209. In connection with the sale of the limited partnership interests in Mt. Hood Associates, defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf (the "Mt. Hood primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Mt. Hood plaintiffs; made untrue statements of material fact, as described in paragraphs 192-193 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 194 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Mt. Hood plaintiffs.

210. The Mt. Hood primary violators, and each of them, knew of the falsity of the representations described in paragraph 192 above, or recklessly failed to ascertain the

truth of the representations. The Mt. Hood primary violators knew of the omissions of material fact described in paragraph 194 above, or recklessly failed to disclose these facts.

211. Defendants ACE, Analysis, Hernandez, Chandler, Anico, Johnson, TexCom, Buhler, Buhler Software, P-Stat, ConServ, and Steinberger (the "Mt. Hood aiders and abettors"), knew that their actions, as described in paragraphs 189b-f and 195 above, furthered and provided substantial assistance to the primary violators in committing a fraud on the Mt. Hood plaintiffs.

212. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5

213. As a result of these acts, the Mt. Hood plaintiffs are entitled to recover damages equal to all sums paid for their investment, together with interest thereon since the date paid.

• • •

FOURTH CLAIM FOR RELIEF -
COLUMBIA ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Columbia plaintiffs.

268. The Columbia plaintiffs reallege and incorporate by reference paragraphs 1-31 above.

269. The following plaintiffs invested in the Columbia Associates limited partnership in the amounts and on the dates indicated below. They shall be referred to herein as the "Columbia plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Dale R. Peterson	12/80	$26,805
Earl D. Riddle	12/80	26,805
Jack E. Evans	12/80	26,805
Robert E. Johnsen	12/80	26,805
Harlan C. Selby	12/80	26,805
Charles W. Botsford	12/80	26,805
Walter L. Beers	12/80	26,805
R. Matison White	12/30/80	26,805
William L. Gunnell	12/80	26,805
Harry E. Groth, Jr.	12/80	26,805

270. The following defendants participated in the Columbia Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Columbia defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Columbia partnership and were responsible for, among other things, the following:

(1) Creating a Connecticut limited partnership, which was subsequently renamed Columbia Associates;

(2) Conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) Soliciting and arranging for the installation of a general partner for the partnership;

(4) Soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) Soliciting and procuring other Columbia defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) Soliciting and procuring the services of defendant Lampf to: act as special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print,

and distribute a model offering memorandum on which the Columbia offering memorandum was based and prepare, print, and distribute a model partnership agreement and model sales and lease agreements on which the Columbia partnership agreement and sales and lease agreements were based; and

(7) instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. In addition to its role as a packager, defendant LCI was aslo the immediate seller for the Columbia partnership. As described in paragraph 6a above, in this capacity, LCI was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Columbia equipment") purportedly consisted of two IBM 370/158 CPU's, an IBM 3800 Printing Subsystem, and approximately thirteen pieces of IBM peripheral equipment. The Columbia partnership was to pay a total of $1.45 million for this equipment. The master tape was of a software program known as Office Automation System ("OAS"), which was purportedly specially designed to perform basic accounting functions, such as payroll and receivables, on Xerox and Wang word processing units, and was purportedly readily marketable to businesses having those makes of word processing units. The Columbia partnership was to pay a total of $1.95 million for this master tape. Defendants McKenna, Heitmeyer, Wellbrock, and Ward were principals and controlling persons of defendant LCI. LCI played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, by purchasing the Columbia equipment and the OAS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Columbia partnership, it obscured the original purchase price

of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. LCI was or should have been aware of its integral role in the Columbia offering and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself, and with knowledge or reason to know that the equipment and master tape would be used by the packagers in a limited partnership offering. LCI knew or should have known its equipment and master tape transactions described herein would be used to induce these investors to invest in the partnership, and that these investors would rely upon the terms of these transactions in making their investment decisions and to substantiate, for tax purposes, the fair market value, useful life, title and residual value of the equipment, and the fair market value and useful life of the master tape.

c. Defendant Analysis was the equipment seller/lessee for the Columbia partnership. As described in paragraph 6a above, in this capacity, Analysis was the entity that sold the Columbia equipment to the immediate seller, LCI, for resale to the Columbia partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end users, which were represented to be W.R. Grace & Company, Westinghouse Electric Corporation, and Spring Mills, Inc., and was to re-lease the equipment to one or more subsequent end users when the existing user leases expired. Defendant Anico was the parent corporation and a controlling person of Analysis. Defendants Hernandez and Chandler were officers and controlling persons of Analysis. Analysis played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in

that, by selling the Columbia equipment to LCI for resale to the Columbia partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that LCI had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Analysis also added credence to the reasonableness of the end-user lease terms described in the Columbia offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Analysis also provided the sale/lease-back scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end-user leases, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Analysis was or should have been aware of its integral role in the Columbia offering and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself, and with knowledge or reason to know that the equipment would be used by the packagers in a limited partnership offering. Analysis knew or should have known the equipment transactions described herein would be used to induce these investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value, title, useful life and residual value of the equipment.

d. Defendant SSWPI was the master tape lessee for the Columbia partnership. As described in paragraph 6b above, in this capacity, SSWPI was the entity that leased the OAS master tape back from the Columbia partnership and was to market and obtain licensees for the use of the master tape. Defendant SSWPI was an affiliate of Rosen

Associates, which was the master tape seller for the Columbia partnership. As described in paragraph 6b above, in this capacity, Rosen Associates was the entity that sold the OAS master tape to LCI, the immediate seller, for resale to the Columbia partnership. Defendant Rosen was the owner and controlling person of Rosen Associates and SSWPI. Rosen Associates, SSWPI, and/or Rosen had purportedly developed the OAS software program and had purported expertise in marketing the OAS master tape. On information and belief, Rosen formed Rosen Associates and/or SSWPI solely for purposes of participating in the Columbia partnership. Rosen Associates and Rosen played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, by selling the OAS master tape to LCI for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if LCI had purchased the tape from an independent third party in an arm's length, negotiated transaction. SSWPI and Rosen played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, by virtue of their purported expertise in the OAS software program and in the marketing of this software, they appeared capable of successfully exploiting the OAS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Rosen Associates, SSWPI, and Rosen were or should have been aware of their integral role in the Columbia offering and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves, and with knowledge or reason to know that the OAS master tape would be used by the packagers in a limited partnership offering. Rosen Associates, SSWPI, and Rosen knew or should have known that the OAS master tape transactions described herein would be used to induce the investors to invest in

the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the OAS master tape.

e. Defendant Computer Value was the equipment appraiser for the Columbia partnership. Defendant Cuthbert was the president and controlling person of Computer Value. Defendants Computer Value and Cuthbert prepared a written appraisal of the Columbia equipment, on or about September 29, 1980 (hereinafter "the Cuthbert-Columbia appraisal"), which appeared in the Columbia offering memorandum, and which represented that the Columbia equipment had a fair market value of $1.5 million, a useful life in excess of nine years, and a residual value at the end of nine years in excess of $300,000. Computer Value and Cuthbert played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, the Cuthbert-Columbia appraisal justified the inflated price the partnership was to pay for the Columbia equipment and provided the limited partners with "independent" substantiation for the assumptions in the Columbia offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end-user leases, from which the partnership would derive bonus rentals. Computer Value and Cuthbert were or should have been aware that the Cuthbert-Columbia appraisal would be disseminated to prospective investors in Columbia Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Cuthbert-Columbia appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Columbia equipment.

f. Defendant TMS was the master tape appraiser for the Columbia partnership. Defendant Turi was the president and controlling person of TMS. Defendants TMS and Turi prepared a written appraisal of the OAS master tape, on or about October 31, 1980 (hereinafter "the TMS-Columbia appraisal"), which appeared in the Columbia offering memorandum, and which represented that the fair market value of the OAS master tape to be purchased from Rosen Associates and leased to SSWPI was in excess of $3.4 million, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Columbia partnership was paying for the OAS master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Turi had met with the management and technical staff of Rosen Associates and SSWPI, had examined in detail the contents of the OAS master tape, and had discussed with Rosen Associates and SSWPI the underlying objectives of the OAS program, its current development and operational status, the marketing plans contemplated by SSWPI, and the market segments that could benefit from licensing the OAS master tape. TMS and Turi played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that the TMS-Columbia appraisal justified the inflated price the partnership was to pay for the OAS master tape and provided the limited partners with "independent" substantiation for the assumptions in the Columbia offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the OAS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least nine years. TMS and Turi were or should have been aware that the TMS-Columbia appraisal would be disseminated to prospective investors in Columbia Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the TMS-Columbia appraisal in making their investment decisions, and to substantiate, for tax

purposes, the fair market value and useful life of the OAS master tape.

g. Defendant Lampf was the special tax counsel for the Columbia partnership. In this capacity, Lampf issued a special written tax opinion for the Columbia partnership, in or about October 1980 (hereinafter "the Lampf tax opinion"), which it knew would appear in the Columbia offering memorandum, and upon which it knew potential investors, including the Columbia plaintiffs, would rely in making their investment in Columbia Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax benefits to limited partners who had invested capital in Columbia Associates, as more particularly alleged in paragraph 7d. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Columbia offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model sale and lease agreements, on which the Columbia partnership agreement and sale and lease agreements were based.

271. Beginning in or around November 1980, and continuing to the present, the Columbia defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Columbia plaintiffs in connection with the sale of limited partnership interests in Columbia Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and lease-back the Columbia computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Columbia investors, as more particularly alleged in paragraph 7d, in addition to income and profits.

272. The Columbia plaintiffs were induced to invest in Columbia Associates by means of an offering memorandum dated November 14, 1980, and a supplemental offering memorandum dated December 29, 1980 (hereinafter collectively "the Columbia offering memorandum"), which included the Lampf tax opinion, the Cuthbert-Columbia appraisal, and the TMS-Columbia appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 270b above, the end users that were purportedly already leasing this equipment, as described in paragraph 270c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 270b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 270e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Turi, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership.

273. The Columbia offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Columbia partnership had been, or would be, involved. This offering memorandum also stated that defendant Lampf had acted in the past, and anticipated acting in the future, as counsel to other partnerships in which some or all of the participants in the Columbia partnership had been, or would be, involved.

274. In connection with the sale of interests in Columbia Associates to the Columbia plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial profits resulting from fees generated from licensing the OAS master tape and from the lease income and residual value in the Columbia equipment;

b. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investor's entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Columbia appraisal, represented that the Columbia equipment existed, was specifically identified, and was already under lease to W.R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc. on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that the OAS master tape program was ready to be marketed in its then-existing format and would readily achieve a substantial market share in its target market;

e. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the OAS master tape program was tangible, new and original and previously unexploited property, and therefore qualified for investment tax credits;

f. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that SSWPI and Rosen Associates, the master tape lessee and its affiliate, despite their small size, were skilled enough

and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the OAS master tape and thereby generate revenues for the Columbia partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

g. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that Turi had met with the management and staff of Rosen Associates and SSWPI, and had become familiar with the contents and operation of the OAS program and the marketing potential of the OAS master tape;

h. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Columbia appraisal, represented that the fair market value, residual value, and useful life attributed to the Columbia equipment were reasonable and accurate;

i. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that the fair market value and useful life attributed to the OAS master tape were reasonable and accurate.

275. These representations were false and misleading in that:

a. The IBM computer equipment described in the Columbia offering memorandum did not exist or was not under lease to the end users, W.R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc., as represented;

b. The profits promised in the Columbia offering memorandum and in the Lampf tax opinion could not be realized by the Columbia plaintiffs;

c. The actual fair market value, residual value, and useful life of the Columbia equipment were substantially less than represented;

d. The actual fair market value and useful life of OAS master tape were substantially less than represented;

e. The OAS master tape was not readily marketable in its target market without substantial modifications in format;

f. On information and belief, the OAS master tape program was not tangible, new, original or previously unexploited property, and therefore not qualified for investment tax credit;

g. Rosen Associates and SSWPI did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the OAS master tape;

h. On information and belief, before issuing the TMS-Columbia appraisal, Turi had not met with the management and staff of Rosen Associates and SSWPI, had not tested or run the OAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the OAS master tape.

276. In making the representations described above, the following Columbia defendants failed to disclose the following material facts to the Columbia plaintiffs:

a. The packagers and Lampf failed to disclose that the IBM equipment described in the Columbia offering memorandum was not in fact the equipment owned by LCI or Analysis and purchased by the partnership;

b. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the IBM equipment described in the Columbia offering memorandum was not currently under lease to W.R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc., the purported end users;

c. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the actual fair market value, residual value, and useful life of the Columbia equipment were substantially less than represented in the Columbia offering memorandum and in the Cuthbert-Columbia appraisal;

d. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that they had not performed any investigation to examine the Columbia equipment or to verify its existence and condition;

e. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the Columbia IBM equipment was essentially obsolete at the time it was purchased by the Columbia partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

f. The packagers, Lampf, TMS, and Turi failed to disclose that the actual market value and useful life of the OAS master tape were substantially less than represented in the Columbia offering memorandum and in the TMS-Columbia appraisal;

g. The packagers, Lampf, TMS, and Turi failed to disclose that the TMS-Columbia appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

h. The packagers, Lampf, TMS, and Turi failed to disclose that before issuing the TMS-Columbia appraisal, Turi had not met with the management and staff of Rosen Associates and SSWPI, had not tested or run the OAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the OAS master tape;

i. The packagers, Lampf, TMS and Turi failed to disclose that, in order to achieve the market share projected in the TMS-Columbia appraisal, the expenses of marketing the OAS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

j. The packagers, Lampf, TMS, and Turi failed to disclose that Rosen Associates and SSWPI were undercapi-

talized and without sufficient skill, expertise, and personnel to market and license the OAS master tape and general revenues for the partnership;

k. the packagers, Lampf, TMS, and Turi failed to disclose that the OAS master tape was not readily marketable in its target market without substantial modifications in format; and

l. The packagers, Lampf, Analysis, Computer Value, and Cuthbert failed to disclose that the Columbia partnership would not and coulod not obtain title Columbia equipment because of the terms and nature of pre-existing transactions involving the Columbia equipment.

277. Defendants Cuthbert, Computer Value, TMS, Turi, LCI, Analysis, Hernandez, Chandler, Anico, Rosen Associates, SSWPI, and Rosen aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Columbia partnership and their actions in furtherance of these roles, as described in paragraphs 270b-f above, were essential components of the fraud perpetrated on the Columbia plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Columbia plaintiffs.

278. Beginning in and around November 1980, and continuing until the present, the Columbia defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around April 1981, the packager defendants arranged for Mr. Turi to be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Columbia plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Columbia equipment lease were current and that diligent efforts were being made to market and obtain licensees for the OAS master

tape when, in fact, equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

279. The Columbia plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Columbia defendants, as described herein. The Columbia plaintiffs had no reason to believe that the Columbia defendants omitted to state material facts, as described herein. The Columbia plaintiffs were not aware of the true facts or the facts that the Columbia defendants omitted to state. The Columbia plaintiffs were entitled to and did rely on the Columbia defendants' representations, as described herein, and would not have purchased any interests in the Columbia limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

280. The Columbia plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

281. The Columbia plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Columbia plaintiffs and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 278 above. If the Columbia plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs

8 and 278 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

282. The Columbia plaintiffs hereby tender their limited partnership interests to the Columbia defendants.

• • •

COUNT II

(1934 Securities Exchange Act - Section 10(b))

289. The Columbia plaintiffs reallege and incorporate by reference paragraphs 1-31 and 269-282 above.

290. In connection with the sale of the limited partnership interests in Columbia Associates, defendants LCI, LCA, McKenna, Wellbrock, Ward, and Lampf (the "Columbia primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Columbia plaintiffs; made untrue statements of material fact, as described in paragraph 274-275 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 276 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Columbia plaintiffs.

291. The Columbia primary violators, and each of them, knew of the falsity of the representations described in paragraph 274 above, or recklessly failed to ascertain the truth of the representations. The Columbia primary violators knew of the omissions of material fact described in paragraph 276 above, or recklessly failed to disclose these facts.

292. Defendants Analysis, Hernandez, Chandler, Anico, LCI, Computer Value, Cuthbert, Rosen Associates, SSWPI,

Rosen, TMS, and Turi (the Columbia "aiders and abettors") knew that their actions, as described in paragraphs 270b-f and 277 above, furthered and provided substantial assistance to the Columbia primary violators in committing a fraud on the Columbia plaintiffs.

293. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

294. As a result of these acts, the Columbia plaintiffs are entitled to recover damages equal to all sums paid for their investment, together with interest thereon since the date paid.

FIFTH CLAIM FOR RELIEF - SALEM ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Salem plaintiffs.

349. The Salem plaintiffs reallege and incorporate by reference paragraphs 1-31 above.

350. The following plaintiffs invested in the Salem Associates limited partnership in the amounts and on the dates indicated below. They shall be referred to herein as the "Salem plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Dale R. Peterson	12/22/80	$25,227
Jack E. Evans	12/80	25,227
Harlan C. Selby	12/22/80	25,227
Ronald Kirkilie	12/22/80	25,227
Deane E. Reiman	12/24/80	25,227
Jerry E. Marks	12/31/80	25,227
Robert Callahan	12/30/80	25,227
Elman Peterson, Jr.	12/31/80	25,227
Joseph C. Player	12/30/80	25,227
Floyd E. Hambleton	12/30/80	25,227
Woodrow Gwyn	12/80	25,227
Ethel Nunemacher	12/29/80	25,227
C. Wayne Warren	12/80	25,227

351. The following defendants participated in the Salem Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Salem defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Salem partnership and were responsible for, among other things, the following:

(1) Creating a Connecticut limited partnership, which was subsequently renamed Salem Associates;

(2) Conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) Soliciting and arranging for the installation of a general partner for the partnership;

(4) Soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) Soliciting and procuring other Salem defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) Soliciting and procuring the services of defendant Lampf to: act as special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Salem offering memorandum was based, and prepare, print, and distribute a model partnership agreement and model sales and lease agreements, on which the Salem partnership agreement and sales and lease agreements were based; and

(7) Instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. In addition to its role as a packager, defendant LCI was also the immediate seller for the Salem partnership. As described in paragraph 6 above, in this capacity, LCI was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Salem equipment") purportedly consisted of three IBM 3800 Printing Subsystems. The Salem partnership was to pay a total of $1.115 million for this equipment. The master tape was of a software program known as Insurance Brokers and Agents System ("IBAS"), which was purportedly specially designed for use by insurance offices to perform routine administrative and accounting functions, and was purportedly readily marketable within that industry. The Salem partnership was to pay a total of $1.9 million for this master tape. Defendants McKenna, Heitmeyer, Wellbrock, and Ward were principals and controlling persons of defendant LCI. LCI played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by purchasing the Salem equipment and the IBAS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Salem partnership, it obscured the original purchase price of the equipment and master tape, provided a means

by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. LCI was or should have been aware of its integral role in the Salem offering and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself, and with knowledge or reason to know that the equipment or master tape would be used by the packagers in a limited partnership offering. LCI knew or should have known its equipment and master tape transactions described herein would be used to induce these investors to invest in the partnership, and that these investors would rely upon the terms of these transactions in making their investment decisions and to substantiate, for tax purposes, the fair market value, useful life, title and residual value of the equipment, and the fair market value and useful life of the master tape.

c. Defendant Analysis was the equipment seller/lessee for the Salem partnership. As described in paragraph 6a above, in this capacity, Analysis was the entity that sold the IBM equipment to the immediate seller, LCI, for resale to the Salem partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end user, which was represented to be the Coleman Company, and was to re-lease the equipment to a subsequent end user when the existing user lease expired. Defendant Anico was the parent corporation and a controlling person of Analysis. Defendants Hernandez and Chandler were officers and controlling persons of Analysis. Analysis played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by selling the Salem equipment to LCI for resale to the Salem partnership, it further

obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that LCI had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Analysis also added credence to the reasonableness of the end-user lease terms described in the Salem offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Analysis also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end-user leases, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Analysis was or should have been aware of its integral role in the Salem offering and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself, and with knowledge or reason to know that the equipment would be used by the packagers in a limited partnership offering. Analysis knew or should have known the equipment transactions described herein would be used to induce these investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value, title, useful life and residual value of the equipment.

d. Defendant Applications was the master tape lessee for the Salem partnership. As described in paragraph 6b above, in this capacity, Applications was the entity that leased the IBAS master tape back from the Salem partnership and was to market and obtain licensees for the use of the master tape. Defendant Applications was an affiliate of ASG, which was the master tape seller for the Salem partnership. As described in paragraph 6b above,

in this capacity, ASG was the entity that sold the IBAS master tape to LCI, the immediate seller, for resale to the Salem partnership. Defendant Pine was the president and controlling person of ASG and Applications. ASG, Applications, and/or Pine had purportedly developed the IBAS software program and had purported expertise in marketing the IBAS master tape. On information and belief, Pine formed ASG and/or Applications solely for purposes of participating in the Salem partnership. ASG and Pine played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by selling the IBAS master tape to LCI for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if LCI had purchased the tape from an independent third party in an arm's length, negotiated transaction. Applications and Pine played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by virtue of their purported expertise in the IBAS software program and in the marketing of this software, they appeared capable of successfully exploiting the IBAS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. ASG, Applications, and Pine were or should have been aware of their integral role in the Salem offering and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves, and with knowledge or reason to know that the IBAS master tape would be used by the packagers in a limited partnership offering. ASG, Applications, and Pine knew or should have known that the IBAS master tape transactions described herein would be used to induce the investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to

substantiate, for tax purposes, the fair market value and useful life of the IBAS master tape.

e. Defendant Global was the equipment appraiser for the Salem partnership. Defendant Johnson was the president, owner, and controlling person of Global. Defendants Global and Johnson prepared a written appraisal of the Salem equipment, on or about November 24, 1980 (hereinafter "the Global appraisal"), which appeared in the Salem offering memorandum, and which represented that the Salem equipment had a fair market value in excess of $1.115 million, that it had a useful life of nine years, and that at the end of nine years, it would have a residual value of $225,000. Global and Johnson played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that the Global appraisal justified the inflated price the partnership was to pay for the Salem equipment and provided the limited partners with "independent" substantiation for the assumptions in the Salem offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end-user leases, from which the partnership would derive bonus rentals. Global and Johnson were or should have been aware that the Global appraisal would be disseminated to prospective investors in Salem Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Global appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Salem equipment.

f. Defendant TMS was the master tape appraiser for the Salem partnership. Defendant Turi was the president and controlling person of TMS. Defendants TMS and Turi prepared a written appraisal of the IBAS master tape, on or about November 26, 1980 (hereinafter "the TMS-Salem

appraisal"), which appeared in the Salem offering memorandum, and which represented that the IBAS master tape to be purchased from ASG and leased to Applications had a fair market value in excess of $2.19 million and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Salem partnership was paying for the IBAS master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Turi had met with the management and technical staff of ASG and Applications, had examined in detail the contents of the IBAS master tape, and had discussed with ASG and Applications the underlying objectives of the IBAS program, its current development and operational status, the marketing plans contemplated by Applications, and the market segments that could benefit from licensing the IBAS master tape. TMS and Turi played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that the TMS-Salem appraisal justified the inflated price the partnership was to pay for the IBAS master tape and provided the limited partners with "independent" substantiation for the assumptions in the Salem offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the IBAS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least nine years. TMS and Turi were or should have been aware that the TMS-Salem appraisal would be disseminated to prospective investors in Salem Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the TMS-Salem appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the IBAS master tape.

g. Defendant Lampf was the special tax counsel for the Salem partnership. In this capacity, Lampf issued a special written tax opinion for the Salem partnership, in

or about December 1980 (hereinafter "the Lampf tax opinion"), which it knew would appear in the Salem offering memorandum, and upon which it knew potential investors, including the Salem plaintiffs, would rely in making their investment in Salem Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax benefits to limited partners who had invested capital in Salem Associates, as more particularly alleged in paragraph 7d. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Salem offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the Salem Associates partnership agreement and sales and lease agreements were based.

352. Beginning in or around December 1980, and continuing to the present, the Salem defendants in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Salem plaintiffs in connection with the sale of limited partnership interests in Salem Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Salem computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Salem investors, as more particularly alleged in paragraph 7d, in addition to income and profits.

353. The Salem plaintiffs were induced to invest in Salem Associates by means of an offering memorandum dated December 4, 1980 (hereinafter "the Salem offering memorandum"), which included the Lampf tax opinion, the Global appraisal, and the TMS-Salem appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 351b above,

the end user that was purportedly already leasing this equipment, as described in paragraph 351c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 351b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 351e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Turi, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership.

354. The Salem offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Salem partnership had been, or would be, involved. This offering memorandum also stated that defendant Lampf had acted in the past, and anticipated acting in the future, as counsel to other partnerships in which some or all of the participants in the Salem partnership had been, or would be, involved.

355. In connection with the sale of interests in Salem Associates to the Salem plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial profits resulting from fees generated from licensing the IBAS master tape and from the lease income and residual value in the Salem equipment;

b. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement

to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and Global and Johnson, in the Global appraisal, represented that the Salem equipment existed, was specifically identified, and was already under lease to the Coleman Company on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that the IBAS master tape program was ready to market in its then-existing format and would readily achieve a substantial market share in its target market;

e. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, represented that the IBAS master tape program was tangible, new, original and previously unexploited property, and therefore qualified for investment tax credits;

f. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that Applications and ASG, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the IBAS master tape and thereby generate revenues for the Salem partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

g. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that Turi had met with the management and staff of ASG and Applications, and had become familiar with the contents and

operation of the IBAS program and the marketing potential of the IBAS master tape;

h. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and Global and Johnson, in the Global appraisal, represented that the fair market value, residual value, and useful life attributed to the Salem equipment were reasonable and accurate;

i. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that the fair market value and useful life attributed to the IBAS master tape were reasonable and accurate.

356. These representations were false and misleading in that:

a. The IBM computer equipment described in the Salem offering memorandum did not exist or was not under lease to the end user, the Coleman Company, as represented;

b. The profits promised in the Salem offering memorandum and in the Lampf tax opinion could not be realized by the Salem plaintiffs;

c. The actual fair market value, residual value, and useful life of the Salem equipment were substantially less than represented;

d. The actual fair market value and useful life of the IBAS master tape were substantially less than represented;

e. The IBAS master tape was not readily marketable in its target market without substantial modifications in format;

f. On information and belief, the IBAS master tape program was not tangible, new, original or previously unexploited property, and therefore not qualified for investment tax credit;

g. ASG and Applications did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the IBAS master tape;

h. On information and belief, before issuing the TMS-Salem appraisal, Turi had not met with the management and staff of ASG and Applications, had not tested or run the IBAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the IBAS master tape.

357. In making the representations described above, the following Salem defendants failed to disclose the following material facts to the Salem plaintiffs:

a. The packagers and Lampf failed to disclose that the IBM equipment described in the Salem offering memorandum was not in fact the equipment owned by LCI or Analysis and purchased by the partnership;

b. The packagers, Lampf, Global, and Johnson failed to disclose that the IBM equipment described in the Salem offering memorandum was not currently under lease to the Coleman Company, the purported end user;

c. The packagers, Lampf, Global, and Johnson failed to disclose that the actual fair market value, residual value, and useful life of the Salem equipment were substantially less than represented in the Salem offering memoranda and in the Global appraisal;

d. The packagers, Lampf, Global, and Johnson failed to disclose that they had not performed any investigation to examine the Salem equipment or to verify its existence and condition;

e. The packagers, Lampf, Global, and Johnson failed to disclose that the Salem IBM equipment was essentially obsolete at the time it was purchased by the Salem partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

f. The packagers, Lampf, TMS, and Turi failed to disclose that the actual fair market value and useful life of IBAS master tape were substantially less than represented in the Salem offering memorandum and in the TMS-Salem appraisal;

g. The packagers, Lampf, TMS, and Turi failed to disclose that the IBAS master tape was not readily marketable in its target market without substantial modifications in format;

h. The packagers, Lampf, TMS, and Turi failed to disclose that the TMS-Salem appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

i. The packagers, Lampf, TMS, and Turi failed to disclose that before issuing the TMS-Salem appraisal, Turi had not met with the management and staff of ASG and Applications, had not tested or run the IBAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the IBAS master tape;

j. The packagers, Lampf, TMS, and Turi failed to disclose that, in order to achieve the market share projected in the TMS-Salem appraisal, the expenses of marketing the IBAS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

k. The packagers, Lampf, TMS, and Turi failed to disclose that ASG and Applications were undercapitalized and without sufficient skill, expertise, and personnel to market and license the IBAS master tape and generate revenues for the partnership; and

l. The packagers, Lampf, Analysis, Global and Johnson failed to disclose that the Salem plaintiffs would not and could not obtain title to the Salem equipment because of

the terms and nature of pre-existing transactions involving the Salem equipment.

358. Defendants Johnson, Global, TMS, Turi, LCI, Analysis, Hernandez, Chandler, Anico, ASG, Applications, and Pine aided and abetted the misrepresentations and omissions alleged above in that their roles in the Salem partnership and their actions in furtherance of these roles, as described in paragraphs 351b-f above, were essential components of the fraud perpetrated on the Salem plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Salem plaintiffs.

359. Beginning in and around December 1980, and continuing until the present, the Salem defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around April 1981, the packager defendants arranged for Mr. Turi to be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Salem plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Salem equipment lease were current and that diligent efforts were being made to market and obtain licensees for the IBAS master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

360. The Salem plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Salem defendants, as described herein. The Salem plaintiffs had no reason to believe that the Salem

defendants omitted to state material facts, as described herein. The Salem plaintiffs were not aware of the true facts or the facts that the Salem defendants omitted to state. The Salem plaintiffs were entitled to and did rely on the Salem defendants' representations, as described herein, and would not have purchased any interests in the Salem limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

361. The Salem plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

362. The Salem plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Salem plaintiffs and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 359 above. If the Salem plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 359 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

363. The Salem plaintiffs hereby tender their limited partnership interests to the Salem defendants.

* * *

COUNT II

(1934 Securities Exchange Act - Section 10(b))

370. The Salem plaintiffs reallege and incorporate by reference paragraphs 1-31 and 350-363 above.

371. In connection with the sale of limited partnership interests in Salem Associates, defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf (the "Salem primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Salem plaintiffs; made untrue statements of material fact, as described in paragraphs 355-356 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 357 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Salem plaintiffs.

372. The Salem primary violators, and each of them, knew of the falsity of the representations described in paragraph 355 above, or recklessly failed to ascertain the truth of the representations. The Salem primary violators knew of the omissions of material fact described in paragraph 357 above, or recklessly failed to disclose these facts.

373. Defendants Analysis, Hernandez, Chandler, Anico, LCI, Global, Johnson, ASG, Applications, Pine, TMS, and Turi (the "Salem aiders and abettors") knew that their actions, as described in paragraphs 351b-f and 358 above, furthered and provided substantial assistance to the Salem primary violators in committing a fraud on the Salem plaintiffs.

374. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

375. As a result of these acts, the Salem plaintiffs are entitled to recover damages equal to all sums paid for

their investment, together with interest thereon since the date paid.

* * *

SIXTH CLAIM FOR RELIEF - EUSTON ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Euston plaintiffs.

430. The Euston plaintiffs reallege and incorporate by reference paragraphs 1-31 above.

431. The following plaintiffs invested in the Euston Associates limited partnership in the amounts and on the dates indicated below. They shall be referred herein as the "Euston plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Dale R. Peterson	06/08/81	$29,460
Harlan C. Selby	06/08/81	29,460
Perry Coleman	06/05/81	14,730
Bruce Sigman	05/26/81	29,460
Ronald and Joan Chatham	06/08/81	14,730
David Collier	06/08/81	29,460
H. Winston Marshall	06/03/81	29,460
Arlyss D. Dunham	06/05/81	29,460
Robert E. Boekenoogen	06/09/81	29,460
Robert W. Chambers	06/81	58,920
Cliff B. Chulos	06/02/81	29,460
Jay L. Maxwell and James R. McDonald	06/10/81	14,730
Larry G. Zettle	06/10/81	29,460
David McCullam	06/02/81	58,920
John Ball	06/12/81	29,460

432. The following defendants participated in the Euston Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Euston defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Euston partnership and were responsible for, among other things, the following:

(1) Creating a Connecticut limited partnership, which was subsequently renamed Euston Associates;

(2) Conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) Soliciting and arranging for the installation of a general partner for the partnership;

(4) Soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) Soliciting and procuring other Euston defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) Soliciting and procuring the services of defendant Lampf to act as special tax counsel for the partnership and to render a tax opinion for the partnership;

(7) Instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. Defendant LCA was the immediate seller for the Euston partnership. As described in paragraph 6a above, in this capacity, LCA was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Euston equipment") purportedly consisted of an IBM 3032-6 CPU and associated power and console equipment, and approximately seven pieces of IBM peripheral equipment. The Euston partnership was to pay a total of $1,566,154 for this equipment. The master tape was of a software program known as Real Estate Management System ("REMS"), which was purportedly

specially designed for use in the real estate management market for tenant control, accounts receivable and property management and readily marketable within that market and industry. The Euston partnership was to pay a total of $2.2 million for this master tape. Defendant LCA was comprised of defendants McKenna, Heitmeyer, and Wellbrock. LCA played an integral and essential role in the fraud perpetrated upon the Euston plaintiffs in that, by purchasing the Euston equipment and the REMS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Euston partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. LCA was or should have been aware of its integral role in the Euston offering and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself, and which knowledge or reason to know that the equipment and master tape would be used by the packagers in a limited partnership offering. LCA knew or should have known its equipment and master tape transactions described herein would be used to induce these investors to invest in the partnership, and that these investors would rely upon the terms of these transactions in making their investment decisions and to substantiate, for tax purposes, the fair market value, useful life, title and residual value of the equipment, and the fair market value and useful life of the master tape.

c. Defendant Comdisco was the equipment seller/lessee for the Euston partnership. As described in paragraph 6a above, in this capacity, Comdisco was the entity that sold the IBM equipment to the immediate seller, LCA, for re-

sale to the Euston partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end users, which were represented to be Levi Strauss and Control Data, and was to re-lease the equipment to one or more subsequent end users when the existing user leases expired. Defendant Pontikes was an officer and controlling person of Comdisco. Comdisco played an integral and essential role in the fraud perpetrated upon the Euston plaintiffs in that, by selling the Euston equipment to LCA for resale to the Euston partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that LCA had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Comdisco also added credence to the reasonableness of the end-user lease terms described in the Euston offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Comdisco also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end-user leases, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Comdisco was or should have been aware of its integral role in the Euston offering and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself, and with knowledge or reason to know that the equipment would be used by the packagers in a limited partnership offering. Comdisco knew or should have known the equipment transactions described herein would be used to induce these investors to invest in the partnership, and that the investors would rely on the terms of the transactions in

making their investment decisions, and to substantiate, for tax purposes, the fair market value, title, useful life and residual value of the equipment.

d. An entity known as Prose, Inc. was the master tape lessee for the Euston partnership. As described in paragraph 6b above, in this capacity, Prose was the entity that leased the REMS master tape back from the Euston partnership and was to market and obtain licensees for the use of the master tape. An entity known as M.A. Hanson & Associates was an affiliate of Prose and was the master tape seller for the Euston partnership. As described in paragraph 6b above, in this capacity, M.A. Hanson & Associates was the entity that sold the REMS master tape to LCA, the immediate seller, for resale to the Euston partnership. Defendant Mark Hanson was the owner, officer, and controlling person of Prose and M.A. Hanson & Associates. Prose, M.A. Hanson & Associates, and/or defendant Hanson had purportedly developed the REMS software program and had purported expertise in marketing the REMS master tape. On information and belief, defendant Hanson formed Prose and/or M.A. Hanson & Associates solely for purposes of participating in the Euston offering. Hanson played an integral and essential role in the fraud perpetrated upon the Euston plaintiffs in that, by selling the REMS master tape to LCA for resale to the partnership, he made the purchase price of the tape appear reasonable by making it appear as if LCA had purchased the tape from an independent third party in an arm's length, negotiated transaction. Hanson, Prose, and M.A. Hanson & Associates played an integral and essential role in the fraud perpetrated upon the Euston plaintiffs in that, by virtue of their purported expertise in the REMS software program and in the marketing of this software, they appeared capable of successfully exploiting the REMS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated

valuation of the tape. Hanson, Prose, and M.A. Hanson & Associates were or should have been aware of their integral role in the Euston offering and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves, and with knowledge or reason to know that the REMS master tape would be used by the packagers in a limited partnership offering. Hanson, Prose, and M.A. Hanson & Associates knew or should have known that the REMS master tape transactions described herein would be used to induce the investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the REMS master tape.

e. Defendant Computer Value was the equipment appraiser for the Euston partnership. Defendant Cuthbert was the president and controlling person of Computer Value. Defendants Computer Value and Cuthbert prepared a written appraisal of the Euston equipment, in or about April 1981 (hereinafter "the Cuthbert-Euston appraisal"), which appeared in the Euston offering memorandum, and which represented that the Euston equipment had a fair market value in excess of $2.03 million, that it had a useful life of nine years, and that at the end of the nine years, it would have a residual value of at least $403,000. Computer Value and Cuthbert played an integral and essential role in the fraud perpetrated upon the Euston plaintiffs in that, the Cuthbert-Euston appraisal justified the inflated price the partnership was to pay for the Euston equipment and provided the limited partners with "independent" substantiation for the assumptions in the Euston offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after

the expiration of the end-user leases, from which the partnership would derive bonus rentals. Computer Value and Cuthbert were or should have been aware that the Cuthbert-Euston appraisal would be disseminated to prospective investors in Euston Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Cuthbert-Euston appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Euston equipment.

f. Defendant Edward G. Fizell was the master tape appraiser for the Euston partnership. Defendant Fizell prepared a written appraisal of the REMS master tape, on or about April 10, 1981 (hereinafter "the Fizell appraisal"), which appeared in the Euston offering memorandum, and which represented that the REMS master tape to be purchased from M.A. Hanson & Associates and leased to Prose had a fair market value in excess of $2.6 million, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Euston partnership was paying for the REMS master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Fizell had met with the management of M.A. Hanson & Associates and Prose, had examined in depth the design and structure of the REMS program, and had conducted an independent review of the potential market for the REMS master tape. Defendant Fizell played an integral and essential role in the fraud perpetrated upon the Euston plaintiffs in that the Fizell appraisal justified the inflated price the partnership was to pay for the REMS master tape and provide the limited partners with "independent" substantiation for the assumptions in the Euston offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the REMS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at

least nine years. Fizell was or should have been aware that the Fizell appraisal would be disseminated to prospective investors in Euston Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Fizell appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the REMS master tape.

g. Defendant Lampf was the special tax counsel for the Euston partnership. In this capacity, Lampf issued a special written tax opinion for the Euston partnership, in or about April 1981 (hereinafter "the Lampf tax opinion"), which it knew would appear in the Euston offering memorandum, and upon which it knew potential investors, including the Euston plaintiffs, would rely in making their investment in Euston Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax benefits to limited partners who had invested capital in Euston Associates, as more particularly alleged in paragraph 7d. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Euston offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and partnership sales and lease agreements, on which the Euston Associates partnership agreement and sales and lease agreements were based.

433. Beginning in or around April 1981, and continuing to the present, the Euston defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Euston plaintiffs in connection with the sale of limited partnership interests in Euston Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Euston computer equipment and master tape described above. This

program was purportedly designed to generate substantial tax benefits to the Euston investors, as more particularly alleged in paragraph 7d, in addition to income and profits.

434. The Euston plaintiffs were induced to invest in Euston Associates by means of an offering memorandum dated April 10, 1981 (hereinafter "the Euston offering memorandum"), which included the Lampf tax opinion, the Cuthbert-Euston appraisal, and the Fizell appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 432b above, the end users that were purportedly already leasing this equipment, as described in paragraph 432c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 432b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 432e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Fizell, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership.

435. The Euston offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Euston partnership had been, or would be, involved.

436. In connection with the sale of interests in Euston Associates to the Euston plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, represented that

the limited partnership investment would provide substantial profits resulting from fees generated from licensing the REMS master tape and from the lease income and residual value in the Euston equipment;

b. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Euston appraisal, represented that the Euston equipment existed, was specifically identified, and was already under lease to Levi Strauss and Control Data on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, and Fizell, in the Fizell appraisal, represented that the REMS master tape program was ready to market in its then-existing format and would readily achieve a substantial market share in its target market;

e. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, represented that the REMS master tape program was tangible, new, original and previously unexploited property, and therefore qualified for investment tax credit;

f. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, and Fizell, in the Fizell appraisal, represented that Prose and M.A. Hanson & Associates, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the REMS master tape and thereby generate revenues for the Euston

partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

g. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, and Fizell, in the Fizell appraisal, represented that Fizell had met with the management of M.A. Hanson & Associates and Prose, had become familiar with the design and structure of the REMS program, and had conducted independent research into the marketability of the REMS master tape;

h. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Euston appraisal, represented that the fair market value, residual value, and useful life attributed to the Euston equipment were reasonable and accurate;

i. The packagers and Lampf, in the Euston offering memorandum and the Lampf tax opinion, and Fizell, in the Fizell appraisal, represented that the fair market value and useful life attributed to the REMS master tape were reasonable and accurate.

437. These representations were false and misleading in that:

a. The profits promised in the Euston offering memorandum and in the Lampf tax opinion could not be realized by the Euston plaintiffs;

b. The actual fair market value, residual value, and useful life of the Euston equipment were substantially less than represented;

c. The actual fair market value and useful life of the REMS master tape were substantially less than represented;

d. The REMS master tape was not readily marketable in its target market without substantial modifications in format;

e. On information and belief, the REMS master tape program was not tangible, new, original or previously unexploited property, and therefore not qualified for investment tax credit;

f. Prose and M.A. Hanson & Associates did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the REMS master tape;

g. On information and belief, before issuing the Fizell appraisal, Fizell had not met with the management of Prose and M.A. Hanson & Associates, had not tested or run the REMS program and was not familiar with its design and structure, and had not independently or adequately researched the marketability of the REMS master tape.

438. In making the representations described above, the following Euston defendants failed to disclose the following material facts to the Euston plaintiffs:

a. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the actual fair market value, residual value, and useful life of the Euston equipment were substantially less than represented in the Euston offering memorandum and in the Cuthbert-Euston appraisal;

b. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the Euston IBM equipment was essentially obsolete at the time it was purchased by the Euston partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

c. The packagers, Lampf, and Fizell failed to disclose that the actual fair market value and useful life of the REMS master tape program were substantially less than represented in the Euston offering memorandum and in the Fizell appraisal;

d. The packagers, Lampf, and Fizell failed to disclose that the REMS master tape appraisal contained income

projections for valuation purposes that were made without a reasonable basis in fact;

e. The packagers, Lampf, and Fizell failed to disclose that before issuing the Fizell appraisal, Fizell had not met with the management of Prose and M.A. Hanson & Associates, had not tested or run the REMS program and was not familiar with its design and structure, and had not independently or adequately researched the marketability of the REMS master tape;

f. The packagers, Lampf, and Fizell failed to disclose that the REMS master tape was not readily marketable in its target market without substantial modifications in format;

g. The packagers, Lampf, and Fizell failed to disclose that, in order to achieve the market share projected in the Fizell appraisal, the expenses of marketing the REMS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

h. The packagers, Lampf, and Fizell failed to disclose that Prose and M.A. Hanson & Associates were undercapitalized and without sufficient skill, expertise, and personnel to market and license the REMS master tape and generate revenues for the partnership; and

i. The packagers, Lampf, Comdisco, Computer Value and Cuthbert failed to disclose that the Euston plaintiffs would not and could not obtain title to the Euston equipment because of the terms and nature of pre-existing transactions involving the Euston equipment.

439. Defendants Cuthbert, Computer Value, Fizell, Comdisco, Pontikes, and Hanson aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Euston partnership and their actions in furtherance of these roles, as described in paragraphs 432b-

f above, were essential components of the fraud perpetrated on the Euston plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Euston plaintiffs.

440. Beginning in and around April 1981, and continuing until the present, the Euston defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around September 1981, the packager defendants arranged for Mr. Fizell to be replaced by The Lawrence Group to act as consultant to the partnership and continually assure and represented to the Euston plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Euston equipment lease were current and that diligent efforts were being made to market and obtain licensees for the REMS master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

441. The Euston plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Euston defendants, as described herein. The Euston plaintiffs had no reason to believe that the Euston defendants omitted to state material facts, as described herein. The Euston plaintiffs were not aware of the true facts or the facts that the Euston defendants omitted to state. The Euston plaintiffs were entitled to and did rely on the Euston defendants' representations, as described herein, and would not have purchased any interests in the Euston limited partnership had the misrepresentations of

material facts not been made or had the omissions of material facts not occurred.

442. The Euston plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

443. The Euston plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and defendant Lampf attempted to and did mislead the Euston plaintiffs and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 440 above. If the Euston plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and defendant Lampf, as described in paragraphs 8 and 440 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

444. The Euston plaintiffs hereby tender their limited partnership interests to the Euston defendants.

* * *

COUNT II

(1934 Securities Exchange Act - Section 10(b))

451. The Euston plaintiffs reallege and incorporate by reference paragraphs 1-31 and 431-444 above.

452. In connection with the sale of the limited partnership interests in Euston Associates, defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf (the "Euston primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities

of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Euston plaintiffs; made untrue statements of material fact, as described in paragraphs 436-437 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 438 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate as a fraud and deceit upon the Euston plaintiffs.

453. The Euston primary violators, and each of them, knew of the falsity of the representations described in paragraph 436 above, or recklessly failed to ascertain the truth of the representations. The Euston primary violators knew of the omissions of material fact described in paragraph 438 above, or recklessly failed to disclose these facts.

454. Defendants Comiisco, Potikes, Hanson, Computer Value, Cuthbert, and Fizell (the "Euston aiders and abettors") knew that their actions, as described in paragraphs 432b-f and 439 above, furthered and provided substantial assistance to the Euston primary violators in committing a fraud on the Euston plaintiffs.

455. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

456. As a result of these acts, the Euston plaintiffs are entitled to recover damages equal to all sums paid for their investment, together with interest thereon since the date paid.

COMPLAINT IN *GILBERTSON, et al.* V. *LEASING CONSULTANTS ASSOCIATES, et al.*, Civ. No. 86-1396-RE (D. ORE.)
(EXCERPTS)

• • •

Plaintiffs allege:

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

JURISDICTION AND VENUE

1. Count I of each Claim for Relief asserted herein arises under Section 17(a)(1) of the Securities Act of 1933, 15 U.S.C. § 77q(a)(1). Jurisdiction for these Counts is conferred by 15 U.S.C. § 77v. Count II of each Claim for Relief asserted herein arises under Section 10 of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j and 17 C.F.R. 240.10(b)-5. Jurisdiction for these Counts is conferred by 15 U.S.C. § 78aa. Counts IV, V and VI of each Claim for Relief asserted herein arise under the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO"), 18 U.S.C. §§ 1962 and 1964. Jurisdiction for these Counts is conferred by 18 U.S.C. §§ 1964 and 1965. Jurisdiction for Counts III and Counts VII through XI of each Claim for Relief asserted herein arise under the principles of pendent jurisdiction.

2. Venue is proper in this district in that the acts alleged herein took place in whole or in part in Oregon, including the sales of the securities described herein, and the plaintiffs' claims arose in this district.

DESCRIPTION OF THE PROGRAMS

3. This action arises out of the packaging, syndication, promotion and sale in Oregon of certain tax shelter limited partnerships known as Duval Associates, LaMar Associates, Mt. Hood Associates, Columbia Associates, Salem Associates, and Troy Associates. As more particularly described herein, these tax shelters involved the purchase and leaseback of certain IBM computer hardware equipment and certain so-called master tapes of computer software programs. Plaintiffs invested in these tax shelters by purchasing limited partnership units in one or more of these partnerships.

4. These tax shelter partnerships were promoted and sold during 1979, 1980, and 1981 to general partners and then to investors as "pre-packaged" programs. The partnerships were identical or virtually identical to each other in several respects, including the following:

a. each partnership was packaged and promoted by the same group of six defendants ("the packagers"), as described more particularly herein;

b. each partnership was comprised of 35 limited partnership "units" and was designed to raise approximately $1 million;

c. each partnership was to enter into identically structured sale and leaseback transactions with respect to the computer equipment and master tape, as described more particularly herein;

d. each partnership was created as a Connecticut limited partnership;

e. the offering memoranda used to promote and sell the partnerships were virtually identical in format and in content;

f. the tax opinions contained in these offering memoranda were virtually identical in format and in content;

g. the equipment appraisals contained in these offering memoranda were virtually identical in format and contained a substantial number of identical or virtually identical phrases;

h. the master tape appraisals contained in these offering memoranda were similar in format and contained a substantial number of identical or virtually identical phrases.

5. These partnerships were also similar to at least twelve other tax shelter limited partnerships packaged and promoted by the packager defendants in Oregon and elsewhere during this same time period, including the limited partnerships known as Euston Associates, Runnels Associates, Lake Associates, Mars Associates, Victoria Associates, Travis Associates, K-T Associates, Bandera Associates, Evergreen Associates, Celica Associates, Maverick Associates, and Yoakum Associates.

6. The tax benefits purportedly to be derived from investing in the limited partnerships described herein were to be achieved through a complex series of purchase, sale and leaseback transactions structured and arranged by the packager defendants. As described in the offering memoranda used to promote and sell the investments, these transactions were to be structured as follows:

a. The equipment transactions

(1) Each partnership was to purchase certain specified IBM computer hardware equipment (the "equipment") from an identified entity. This entity was the immediate seller of the equipment to the partnership and will hereinafter be referred to as the "immediate seller." The partnership was to pay less than 10% of the purchase price of the equipment in cash at closing, and the remainder was to be financed by a 9 year non-recourse note. The equipment was purportedly already subject to a bank debt at the time of this transaction.

(2) Just prior to this sale to the partnership, the immediate seller had purportedly purchased the equipment from another identified entity (the "equipment seller") for resale to the partnership.

(3) Simultaneously with purchasing the equipment from the immediate seller, the partnership was to lease the equipment back to the equipment seller under a non-cancellable 9 year lease. The equipment seller would

thereby become a lessee of the equipment from the partnership. This entity will hereinafter be referred to as the "equipment seller/lessee."

(4) At the time of all these transactions, the equipment was represented to be already in place and in use by one or more identified nationally recognized companies (the "user"). The user had purportedly leased the equipment from the equipment seller/lessee before it was sold to the immediate seller for resale to the partnership. This underlying lease (the "user lease") was to expire within 36 to 48 months, at which time the equipment was to be re-leased to another user, if possible. During the pendency of any such subsequent user lease, the partnership was to receive a specified "bonus rental" of approximately 50% of the subsequent user's lease payments.

b. The master tape transactions

(1) In addition to and simultaneously with purchasing the computer equipment, each partnership was to also purchase a master tape for certain specified computer software (the "master tape") from the same immediate seller from whom it had purchased the computer equipment. The master tape was purportedly designed for a specialized function or for use in a specific identified industry, and was purportedly readily marketable for that function or within that industry. The partnership was to pay less than 10% of the purchase price of the master tape in cash at closing, and the remainder was to be financed by a long-term note of approximately 20 years. In addition, each partner in the partnership was to execute a "personal liability agreement" making him or her personally liable for his or her pro-rata share of the partnership's liability on the master tape note.

(2) Just prior to this sale to the partnership, the immediate seller had purportedly purchased the master tape from another identified entity (the "master tape seller") for resale to the partnership.

(3) Simultaneously with purchasing the master tape from the immediate seller, the partnership was to lease the master tape back to an identified affiliate of the master tape seller. This entity will hereinafter be referred to as the "master tape lessee."

(4) The master tape lessee was to market and license the master tape to businesses or entities that were in need of the specialized function the software could perform or within the specific industry for which the software was designed. Revenues generated from marketing and licensing the master tape were to be shared with the partnership in the form of certain specified flat and percentage fees paid to the partnership.

7. The offering memoranda issued to promote and sell each of the partnerships and to attract potential investors contained, among other things, the following:

a. a description of the transactions as outlined above;

b. a purportedly independent appraisal of the computer equipment, including an appraisal and valuation of its fair market value, residual value and useful life;

c. a purportedly independent appraisal of the master tape, including an appraisal and valuation of its fair market value and useful life, and a description of potential markets and licensees for the master tape;

d. a tax opinion letter by one of the defendant law firms describing the tax benefits to be derived from investing in the partnership, including eligibility for investment tax credits and for certain deductions based upon depreciation, interest expense, and trade or business expenses.

8. In or around April and/or October, 1984, in connection with the settlement of litigation against them relating to the limited partnerships known as Evergreen Associates, Celica Associates, Maverick Associates, and Yoakum As-

sociates, the packager defendants and defendant Lampf arranged to have all documents and materials relating to or generated in that litigation kept confidential and/or sealed by the court.

DESCRIPTION OF PLAINTIFFS

9. As more particularly described herein, plaintiffs are thirty-nine individuals or entities that invested in one or more of the limited partnerships described herein.

DESCRIPTION OF DEFENDANTS

The Packagers

10. Defendants Leasing Consultants Associates "LCA"), Leasing Consultants, Inc. ("LCI"), William L. McKenna ("McKenna"), Richard A. Heitmeyer ("Heitmeyer"), Richard D. Wellbrock ("Wellbrock") and William B. Ward ("Ward") acted as packagers and promoters of the tax shelter programs sold to plaintiffs, and conceived and arranged for the sale, purchase and lease transactions involved, procured the services of Lampf, Arnheim & McCostis and other defendants, caused the preparation and dissemination of a model offering memoranda, solicited and procured broker/dealers and others to place or sell the limited partnership interests to plaintiffs, and solicited and procured appraisals for the equipment and master tapes.

11. Defendant LCA was at all relevant times a New Jersey general partnership comprised of defendants McKenna, Heitmeyer and Wellbrock.

12. Defendant LCI was at all relevant times a Delaware corporation with its principal place of business in New Jersey, and was an affiliate of defendant LCA. Defendants McKenna, Heitmeyer, Wellbrock and Ward were officers and controlling persons of LCI and were, at all relevant times, citizens of the state of New Jersey.

The Immediate Sellers

13. As described above, defendant LCA was at all relevant times a New Jersey general partnership.

14. As described above, defendant LCI was at all relevant times a Delaware corporation with its principal place of business in New Jersey.

15. Defendant American Computer Equipment Leasing, Inc. ("ACE") was at all relevant times a corporation doing business in the state of New York.

16. Defendant Computer Systems Consultants, Inc., ("CSC") was at all relevant times a Delaware corporation with its principal office in Ridgewood, New Jersey.

The Equipment Sellers/Lessees

17. Defendant Analysis International Co., Inc. ("Analysis") is or was a corporation with its principal place of business in Charlotte, North Carolina. Defendant Anico Computer Leasing, Inc. ("Anico") is or was a North Carolina corporation and the parent corporation and controlling person of defendant Analysis. Defendants Amato Hernandez ("Hernandez") and John Chandler ("Chandler") are or were officers and controlling persons of Analysis and Anico.

18. Defendant Alanthus Computer Corporation ("Alanthus Computer") and defendant Alanthus Corporation ("Alanthus") are or were Delaware corporations. On information and belief, Alanthus Computer and/or Alanthus are now known as Technology Finance Group. On information and belief, Alanthus Computer and/or Alanthus may have been affiliated with Analysis International Co., Inc.

19. Defendant Rockwood Computer Corporation ("Rockwood") was at all relevant times a corporation with its principal place of business in Elmsford, New York. Defendants Martin S. Karnoff ("Karnoff"), David G.

Marks ("Marks") and John M. Costello ("Costello") are or were officers and controlling persons of Rockwood.

The Master Tape Lessees and Affiliates

20. Defendants Kirby Microprocessors, Inc. ("KMI") and Kirby Computer Systems, Inc. ("Kirby Computer") were at all relevant times corporations doing business in the state of New Jersey. Defendant Robert M. Kirby ("Kirby") is or was the owner and controlling person of KMI and Kirby Computer.

21. Defendants Gordon S. Rosen Associates, Inc. ("Rosen Associates") and Software Systems for Word Processors, Inc. ("SSWPI") were at all relevant times corporations doing business in the state of New York. Defendant Gordon S. Rosen ("Rosen") is or was the owner and controlling person of Rosen Associates and SSWPI.

22. Defendants Robrech Systems, Inc. ("Robrech") and Digitize, Inc. ("Digitize") were at all relevant times corporations doing business in the state of New York.

23. Defendants Buhler Software Services ("Buhler Software") and P-STAT, Inc. ("P-Stat) were at all relevant times corporations doing business in the state of New Jersey. Defendant Roald Buhler ("Buhler") is or was the owner and controlling person of Buhler Software and P-Stat.

24. Defendants ASG Program Products, Inc. ("ASG") and Applications Systems Group, Inc. ("Applications") were at all relevant times corporations doing business in the state of New York. Defendant Martin D. Pine ("Pine") is or was the president and/or controlling person of ASG and Applications.

25. Defendants Start System, Inc. ("Start Systems") and Jeflen Consulting Corporation ("Jeflen") were at all relevant times New York corporations. Defendants Jerrold

Feingold ("J. Feingold") and Leonard Feingold ("L. Feingold") are or were officers and controlling persons of Start Systems and Jeflen.

The Equipment Appraisers

26. Defendant Computer Value Associates ("Computer Value") was at all relevant times a company doing business in the state of New York. Defendant James Cuthbert ("Cuthbert") is or was the president and controlling person of Computer Value.

27. Defendant TexCom Equipment Corporation ("TexCom") and Global Computer Corporation ("Global") were at all relevant times corporations doing business in the state of Texas. Defendant Ronald Johnson ("Johnson") is or was the president, owner, and controlling person of Texcom and Global.

28. Defendant Berlent Industries, Inc. ("Berlent Industries") was at all relevant times a corporation doing business in the state of New York. Defendant Harvey N. Berlent ("Berlent") is or was the president and controlling person of Berlent Industries.

The Master Tape Appraisers

29. Defendant Ward was at all relevant times a citizen of the state of New Jersey.

30. Defendant ConServ International, Inc. ("ConServ") was at all relevant times a corporation doing business in the state of New Jersey. Defendant Robert W. Steinberger ("Steinberger") is or was the president and controlling person of ConServ. Prior to his association with ConServ, Steinberger was vice president of defendant Kirby Computer.

31. Defendant Technical Marketing Services, Inc. ("TMS") was at all relevant times a corporation doing

business in the states of New York and New Jersey. Defendant Leonard F. Turi ("Turi") is or was the president and controlling person of TMS.

32. Defendant Information Industries, Inc. ("Information Industries") was at all relevant times a corporation doing business in the state of New Jersey. Defendant Robert A. Weber ("Weber") is or was an officer and controlling person of Information Industries.

The Attorneys

33. Defendant Lampf, Pleva, Lipkind, Prupis & Petigrow, P.C. ("Lampf") was at all relevant times a professional legal corporation with its principal place of business in the state of New Jersey. Lampf is now known as Lampf, Lipkind, Purpis & Petigrow, P.C.

34. Defendants Anders Arnheim ("Arnheim") and Richard McCostis ("McCostis"), dba the law firm of Arnheim & McCostis, was at all relevant times a New York partnership with its principal place of business in New York, New York. Defendants Robert M. Hurwitz ("Hurwitz") and Noah Schreiber ("Schreiber") were attorneys employed by Arnheim & McCostis and had responsibility for some or all of the professional legal services rendered by Arnheim & McCostis, as described herein. Arnheim, McCostis, Hurwitz, and Schreiber will hereinafter be collectively referred to as "Arnheim & McCostis."

Non-Defendant Co-Conspirator

35. The Lawrence Group was at all material times a consulting firm controlled by defendant William Ward. After the sales of the limited partnership units described herein, The Lawrence Group was engaged by the partnerships, at the suggestion of the packager defendants, purportedly to monitor the status of each of the partnerships' equipment and master tape leases and to make periodic reports to the partnerships describing this status.

FIRST CLAIM FOR RELIEF - DUVAL ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Duval plaintiff.

36. The Duval plaintiff realleges and incorporates by reference paragraphs 1-35, above.

37. The following plaintiff invested in the Duval Associates limited partnership in the amount and on the date indicated below. He shall be referred to herein as the "Duval plaintiff."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Jack R. Stowell	10/79	$ 28,604.00

38. The following defendants participated in the Duval Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Duval defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Duval partnership and were responsible for, among other things, the following:

(1) creating a Connecticut limited partnership, which was subsequently renamed Duval Associates;

(2) conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) soliciting and arranging for the installation of a general partner for the partnership;

(4) soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) soliciting and procuring other Duval defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) soliciting and procuring the services of defendant Lampf to: act as general or special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Duval offering memorandum was based, and prepare, print, and distribute a model partnership agreement and model sales and lease agreements, on which the Duval partnership agreement and sales and leases agreements were based; and

(7) instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. Defendant CSC was immediate seller for the Duval partnership. As described in paragraph 6a above, in this capacity, it was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Duval equipment") purportedly consisted of an IBM 370/158 Central Processing Unit ("CPU"), an IBM 370/148 CPU, two IBM 370/138 CPU's, and approximately ten pieces of IBM peripheral equipment. The Duval partnership was to pay a total of $1,726,750 for this equipment. The master tape was of a software program known as Kirby Integrated Business Systems ("KIBS"), which was purportedly specially designed for use by home heating oil dealers and readily marketable within that industry. The Duval partnership was to pay a total of $2,000,000 for this master tape. CSC played an integral and essential role in the fraud perpetrated upon the Duval plaintiff in that, by purchasing the Duval equipment and the KIBS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Duval partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the

equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. CSC was or should have been aware of its integral role in the Duval partnership and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself.

c. Defendant Alanthus Computer was the equipment seller/lessee for the Duval partnership. As described in paragraph 6a above, in this capacity, it was the entity that sold the Duval equipment to the immediate seller, CSC, for resale to the Duval partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the Duval equipment to the end users, which were represented to be General Motors, the Stop & Shop Companies, General Automation Company, and Hills-McCanna Company, and was to re-lease the equipment to one or more subsequent end users when the existing user leases expired. Alanthus Computer played an integral and essential role in the fraud perpetrated upon the Duval plaintiff in that, by selling the Duval equipment to CSC for resale to the Duval partnership, if futher obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that CSC had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Alanthus Computer also added credence to the reasonableness of the end user lease terms described in the Duval offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Alanthus Computer also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to release the equipment at the expiration of the end user leases, in anticipation of a probable IRS objection to the

economic substance of these transactions if the partnership had to seek its own lessees. Alanthus Computer was or should have been aware of its integral role in the Duval partnership and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself.

d. Defendant Kirby Computer was the master tape lessee for the Duval partnership. As described in paragraph 6b above, in this capacity, it was the entity that leased the KIBS master tape back from the Duval partnership and was to market and obtain licensees for the use of the master tape. Defendant KMI was an affiliate of Kirby Computer and was the master tape seller for the Duval partnership. As described in paragraph 6b above, in this capacity, it was the entity that sold the KIBS master tape to CSC, the immediate seller, for resale to the Duval partnership. Defendant Kirby was the owner and controlling person of KMI and Kirby Computer. KMI, Kirby Computer, and/or Kirby had purportedly developed the KIBS software program and had purported expertise in marketing the KIBS master tape. On information and belief, Kirby formed Kirby Computer and/or KMI solely for purposes of participating in the Duval partnership. KMI and Kirby played an integral and essential role in the fraud perpetrated upon the Duval plaintiff in that, by selling the KIBS master tape to CSC for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if CSC had purchased the tape from an independent third party in an arm's length, negotiated transaction. Kirby Computer and Kirby played an integral and essential role in the fraud perpetrated upon the Duval plaintiff in that, by virtue of their purported expertise in the KIBS software program and in the marketing of this software, they appeared capable of successfully exploiting the KIBS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify

the inflated valuation of the tape. KMI, Kirby Computer, and Kirby were or should have been aware of their integral role in the Duval partnership and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves.

e. Defendant Berlent Industries was the equipment appraiser for the Duval partnership. Defendant Berlent was the president and controlling person of Berlent Industries. Defendants Berlent Industries and Berlent prepared a written appraisal of the Duval equipment, on or about October 19, 1979, (hereinafter the "Berlent-Duval appraisal") which appeared in the Duval offering memorandum, and which represented that the fair market value of the Duval equipment was $1.552 million, that the equipment had a useful life in excess of nine years, and that at the end of the nine-year period, its fair market value would be $310,000. Berlent Industries and Berlent played an integral and essential role in the fraud perpetrated upon the Duval plaintiff in that the Berlent-Duval appraisal justified the inflated price the partnership was to pay for the Duval equipment and provided the limited partners with "independent" substantiation for the assumptions in the Duval offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end user leases, from which the partnership would derive bonus rentals. Berlent Industries and Berlent were or should have been aware that the Berlent-Duval appraisal would be disseminated to prospective investors in Duval Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Berlent-Duval appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market

value, residual value, and useful life of the Duval equipment.

f. In addition to his role as a packager, defendant Ward was also the master tape appraiser for the Duval partnership. In this capacity, he prepared a written appraisal of the KIBS master tape, on or about August 30, 1979, (hereinafter the "Ward-Duval appraisal") which appeared in the Duval offering memorandum, and which represented that the fair market value of the KIBS master tape to be purchased from KMI and leased to Kirby Computer was in excess of $2 million, and that it had a useful life in excess of seven years. This appraisal also represented that the representatives of the Data General Corporation would be actively engaged in marketing the KIBS master tape. This appraisal also represented that the purchase price that the Duval partnership was paying for the KIBS master tape was equal or closer to its appraised fair market value. This appraisal also represented that defendant Ward had met with the management of Kirby Computer and KMI and had reviewed in detail the operation of the KIBS master tape. Ward played an integral and essential role in the fraud perpetrated upon the Duval plaintiff in that the Ward-Duval appraisal justified the inflated price the partnership was to pay for the KIBS master tape and provided the limited partners with "independent" substantiation for the assumptions in the Duval offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the KIBS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least seven years. Ward was or should have been aware that the Ward-Duval appraisal would be disseminated to prospective investors in Duval Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Ward-Duval appraisal in making their investment decisions and to sub-

stantiate, for tax purposes, the fair market value and useful life of the KIBS master tape.

g. Defendant Lampf was the general or special tax counsel for the Duval partnership. In this capacity, Lampf issued a special written tax opinion for the Duval partnership, on or about October, 1979, (hereinafter "the Lampf tax opinion") which appeared in the Duval offering memorandum, and upon which the Duval plaintiff relied in making his investment in Duval Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax consequences to limited partners who had invested capital in Duval Associates. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Duval offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the Duval partnership agreement and sales and lease agreements were based.

39. Beginning in or around September, 1979, and continuing to the present, the Duval defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Duval plaintiff in connection with the sale of limited partnership interests in Duval Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Duval computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Duval investors, in addition to income and profits.

40. The Duval plaintiff was induced to invest in Duval Associates by means of an offering memorandum dated September 10, 1979, and a supplemental offering memo-

randum dated October 26, 1979, (hereinafter collectively "the Duval offering memorandum"), which included the Lampf tax opinion, the Berlent-Duval appraisal, and the Ward-Duval appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 38b above, the end users that were purportedly already leasing this equipment, as described in paragraph 38c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 38b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 38e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above.

41. The Duval offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Duval partnership had been, or would be, involved.

42. In connection with the sale of interests in Duval Associates to the Duval plaintiff, the following defendants represented the following:

a. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial tax benefits, as well as profit resulting from fees generated from licensing the KIBS master tape and from the lease income and residual value in the Duval equipment;

b. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that the KIBS master tape program was ready to be marketed in its then-existing format and would readily achieve a significant market share in its target market;

d. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the KIBS master tape program was new and original, and therefore qualified for investment tax credits;

e. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that Kirby Computer and KMI, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the KIBS master tape and thereby generate revenues for the Duval partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

f. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that Ward had met with the management of Kirby Computer and KMI and had become familiar with the operation of the KIBS program;

g. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Berlent Industries and Berlent, in the Berlent-Duval appraisal, represented that the fair market value, residual value, and useful life attributed to the Duval equipment were reasonable and accurate;

h. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, and Ward, in the Ward-Duval appraisal, represented that the fair market

value and useful life attributed to the KIBS master tape were reasonable and accurate;

j. The packagers and Lampf, in the Duval offering memorandum and the Lampf tax opinion, represented that the parties involved in the Duval sale and lease transactions had no conflicts of interest not disclosed in the Duval offering memorandum.

43. These representations were false and misleading in that:

a. The tax benefits and profits promised in the Duval offering memorandum and in the Lampf tax opinion could not be realized by the Duval plaintiff;

b. The actual fair market value, residual value, and useful life of the Duval equipment were substantially less than represented;

c. The actual fair market value and useful life of the KIBS master tape were substantially less than represented;

d. The KIBS master tape was not readily marketable in its target market without substantial modifications in format;

e. On information and belief, the KIBS master tape program was not new or original, and therefore not qualified for investment tax credits;

f. KMI and Kirby Computer did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the KIBS master tape;

g. On information and belief, before issuing the Ward-Duval appraisal, Ward had not met with the management of Kirby Computer and KMI, and had not tested or run the KIBS program and was not familiar with its operation;

h. Ward was a principal of defendant LCI, and therefore had conflicts of interest not disclosed in the Duval offering memorandum.

44. In making the representations described above, the following Duval defendants failed to disclose the following material facts to the Duval plaintiff:

a. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the actual fair market value, residual value, and useful life of the Duval equipment were substantially less than represented in the Duval offering memorandum and in the Berlent-Duval appraisal;

b. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the Duval IBM equipment was likely to become obsolete shortly after it was purchased by the Duval partnership in that IBM frequently announced the introduction of new, better systems that would render the equipment obsolete;

c. The packagers, Lampf, and Ward failed to disclose that the actual fair market value and useful life of the KIBS master tape were substantially less than represented in the Duval offering memorandum and in the Ward-Duval appraisal;

d. The packagers, Lampf, and Ward failed to disclose that the Ward-Duval appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

e. The packagers, Lampf, and Ward failed to disclose that before issuing the Ward-Duval appraisal, Ward had not met with the management of Kirby Computer and KMI, had not tested or run the KIBS program and was not familiar with its contents and operation, and had not adequately researched the marketability of the KIBS master tape;

f. The packagers, Lampf, and Ward failed to disclose that the KIBS master tape was not readily marketable in its target market without substantial modifications in format;

g. The packagers, Lampf, and Ward, failed to disclose that, in order to achieve the market share projected in the Ward-Duval appraisal, the expenses of marketing the KIBS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

h. The packagers and Lampf failed to disclose that Ward was a principal in defendant LCI, and therefore had conflicts of interest not disclosed in the Duval offering memorandum;

i. The packagers, Lampf, and Ward failed to disclose that KMI and Kirby Computer were undercapitalized and without sufficient skill, expertise, and personnel to market and license the KIBS master tape and generate revenues for the partnership; and

j. The packagers and Lampf failed to disclose that the Duval plaintiff would not be entitled to the tax benefits promised in the Duval offering memorandum and the Lampf tax opinion.

45. Defendants Berlent, Berlent Industries, Ward, CSC, Alanthus Computer, KMI, Kirby Computer, and Kirby aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Duval partnership and their actions in furtherance of these roles, as described in paragraphs 38b-f above, were an essential component of the fraud perpetrated on the Duval plaintiff and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Duval plaintiff.

46. Beginning in and around September, 1979, and continuing until the present, the Duval defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and

conspiracy, in or around February, 1980, the packager defendants arranged for The Lawrence Group to be engaged to act as consultant to the partnership and continually assured and represented to the Duval plaintiff, through periodic reports from the Lawrence Group, that lease payments on the Duval equipment lease were current and that diligent efforts were being made to market and obtain licensees for the KIBS master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

47. The Duval plaintiff had no reason to question or doubt the accuracy of any of the representations made by the Duval defendants, as described herein. The Duval plaintiff had no reason to believe that the Duval defendants omitted to state material facts, as described herein. The Duval plaintiff was not aware of the true facts or the facts that the Duval defendants omitted to state. The Duval plaintiff was entitled to and did rely on the Duval defendants' representations, as described herein, and would not have purchased any interests in the Duval limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

48. The Duval plaintiff did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March, 1986, after some plaintiffs conducted an investigation of the programs and described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

49. The Duval plaintiff was duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Duval plaintiff and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 46 above. If the Duval plaintiff or his agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 46 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that he did not have a claim for relief.

50. The Duval plaintiff hereby tenders his limited partnership interest to the Duval defendants.

• • •

COUNT II

(1934 Securities Exchange Act - Section 10(b))

57. The Duval plaintiff realleges and incorporates by reference paragraphs 1-50 above.

58. In connection with the sale of limited partnership interests in Duval Associates, defendants LCA, LCI, McKenna, Wellbrock, Heitmeyer, Ward, and Lampf (the "Duval primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Duval plaintiff; made untrue statements of material fact, as described in paragraphs 42-43 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 44 above, and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Duval plaintiff.

59. The Duval primary violators, and each of them, knew of the falsity of the representations described in paragraph 42 above, or recklessly failed to ascertain the truth of the representations. The Duval primary violators knew of the omissions of material fact described in paragraph 44 above, or recklessly failed to disclose these facts.

60. Defendants CSC, Alanthus Computer, Berlent, Berlent Industries, Ward, KMI, Kirby, and Kirby Computer (the "Duval aiders and abettors") knew that their actions, as described in paragraphs 38b-f, 45 above, furthered and provided substantial assistance to the Duval primary violators in committing a fraud on the Duval plaintiff.

61. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

62. As a result of these acts, the Duval plaintiff is entitled to recover damages equal to all sums paid for his investment, together with interest thereon since the date paid.

* * *

SECOND CLAIM FOR RELIEF - LaMAR ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the LaMar plaintiff.

109. The LaMar plaintiff realleges and incorporates by reference paragraphs 1-35 above.

110. The following plaintiff invested in the LaMar Associates limited partnership in the amount and on the date indicated below. He shall be referred to herein as the "LaMar plaintiff."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Merle Hanset	12/28/79	$ 31,971.00

111. The following defendants participated in the LaMar partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "LaMar defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the LaMar partnership and were responsible for, among other things, the following:

(1) creating a Connecticut limited partnership, which was subsequently renamed LaMar Associates;

(2) conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) soliciting and arranging for the installation of a general partner for the partnership;

(4) soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) soliciting and procuring other LaMar defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) soliciting and procuring the services of defendant Lampf to: act as general or special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the LaMar offering memorandum was based, and prepare, print and distribute a model partnership agreement and model sales and lease agreements on which the LaMar partnership agreement and sales and lease agreements were based; and

(7) instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. Defendant CSC was the immediate seller for the LaMar partnership. As described in paragraph 6a above, in this capacity, it was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "LaMar equipment") purportedly consisted of an IBM 370/168 CPU and approximately seven pieces of IBM peripheral equipment. The LaMar partnership was to pay a total of $1,726,750 for this equipment. The master tape was of a software program known as Automated Information Display System ("AID"), which was purportedly specially designed for use by emergency response organizations, such as police and fire departments, and was purportedly readily marketable to such organizations. The LaMar partnership was to pay a total of $2,450,000 for this master tape. CSC played an integral and essential role in the fraud perpetrated upon the LaMar plaintiff in that, by purchasing the LaMar equipment and the AID master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the LaMar partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. CSC was or should have been aware of its integral role in the LaMar partnership and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself.

c. Defendant Alanthus was the equipment seller/lessee for the LaMar partnership. As described in paragraph 6a above, in this capacity, it was the entity that sold the IBM equipment to the immediate seller, CSC, for resale to the LaMar partnership, and then leased the equipment back

from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end user, which was represented to be Associated Hospital Service, Inc., an affiliate of Blue Cross of Wisconsin, and was to re-lease the equipment to a subsequent end user when the existing user lease expired. Alanthus played an integral and essential role in the fraud perpetrated upon the LaMar plaintiff in that, by selling the LaMar equipment to CSC for resale to the LaMar partnership, if further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that CSC had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Alanthus also added credence to the reasonableness of the end user lease terms described in the LaMar offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Alanthus also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end user lease, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Alanthus was or should have been aware of its integral role in the LaMar partnership and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself.

d. Defendant Digitize was the master tape lessee for the LaMar partnership. As described in paragraph 6b above, in this capacity, it was the entity that leased the AID master tape back from the LaMar partnership and was to market and obtain licensees for the use of the master tape. Defendant Robrech was an affiliate of Digitize and was the master tape seller for the LaMar partnership.

As described in paragraph 6b above, in this capacity, it was the entity that sold the AID master tape to CSC, the immediate seller, for resale to the LaMar partnership. Digitize and/or Robrech had purportedly developed the AID software program and had purported expertise in marketing the AID master tape. On information and belief, Digitize and/or Robrech were formed solely for purposes of participating in the LaMar partnership. Robrech played an integral and essential role in the fraud perpetrated upon the LaMar plaintiff in that, by selling the AID master tape to CSC for resale to the partnership, it made the purchase price of the tape appear reasonable by making it appear as if CSC had purchased the tape from an independent third party in an arm's length, negotiated transaction. Digitize played an integral and essential role in the fraud perpetrated upon the LaMar plaintiff in that, by virtue of its purported expertise in the AID software program and in the marketing of this software, it appeared capable of succe: sfully exploiting the AID master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Robrech and Digitize were or should have been aware of their integral role in the LaMar partnership and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves.

e. Defendant Berlent Industries was the equipment appraiser for the LaMar partnership. Defendant Berlent was the president and controlling person of Berlent Industries. Defendants Berlent Industries and Berlent prepared a written appraisal of the LaMar equipment, on or about November 6, 1979, (hereinafter "the Berlent-LaMar appraisal") which appeared in the LaMar offering memorandum, and which represented that the current fair market value for the LaMar equipment was $1.85 million, that

it had a useful life in excess of nine years, and that at the end of nine years, it would have a residual value of $420,000. Berlent Industries and Berlent played an integral and essential role in the fraud perpetrated upon the LaMar plaintiff in that the Berlent-LaMar appraisal justified the inflated price the partnership was to pay for the LaMar equipment and provided the limited partners with "independent" substantiation for the assumptions in the LaMar offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end user lease, from which the partnership would derive bonus rentals. Berlent Industries and Berlent were or should have been aware that the Berlent-LaMar appraisal would be disseminated to prospective investors in LaMar Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Berlent-LaMar appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the LaMar equipment.

f. In addition to his role as a packager, defendant Ward was also the master tape appraiser for the LaMar partnership. In this capacity, he prepared a written appraisal of the AID master tape, on or about November 26, 1979, (hereinafter "the Ward-LaMar appraisal") which appeared in the LaMar offering memorandum, and which represented that the fair market value of the AID master tape to be purchased from Robrech and leased to Digitize was in excess of $2.5 million, and that its useful life was at least seven years. This appraisal also represented that the purchase price that the LaMar partnership was paying for the AID master tape was equal or close to this appraisal fair market value. This appraisal also represented that defendant Ward had met with the management, sales,

and technical staff of Robrech and Digitize, had reviewed in detail the contents of the AID master tape, and had conducted independent market research into the target market for the KIBS master tape. Ward played an integral and essential role in the fraud perpetrated upon the LaMar plaintiff in that the Ward-LaMar appraisal justified the inflated price the partnership was to pay for the AID master tape and provided the limited partners with "independent" substantiation for the assumptions in the LaMar offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the AID master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least seven years. Ward was or should have been aware that the Ward-LaMar appraisal would be disseminated to prospective investors in LaMar Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Ward-LaMar appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value and useful life of the AID master tape.

g. Defendant Lampf was the general or special tax counsel for the LaMar partnership. In this capacity, Lampf issued a special written tax opinion for the LaMar partnership, on or about December, 1979, (hereinafter "the Lampf tax opinion") which appeared in the LaMar offering memorandum, and upon which the LaMar plaintiff relied in making his investment in LaMar Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax consequences to limited partners who had invested capital in LaMar Associates. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the LaMar offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the

LaMar partnership agreement and sales and lease agreements were based.

112. Beginning in or around November, 1979, and continuing to the present, the LaMar defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the LaMar plaintiff in connection with the sale of limited partnership interests in LaMar Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the LaMar computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the LaMar investors, in addition to income and profits.

113. The LaMar plaintiff was induced to invest in LaMar Associates by means of an offering memorandum dated November 30, 1979, (hereinafter "the LaMar offering memorandum") which included the Lampf tax opinion, the Berlent-LaMar appraisal, and the Ward-LaMar appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 111b above, the end user that was purportedly already leasing this equipment, as described in paragraph 111c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 111b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 111e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above.

114. In connection with the sale of interests in LaMar Associates to the LaMar plaintiff, the following defendants represented the following:

a. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial tax benefits, as well as profit resulting from fees generated from licensing the AID master tape from the lease income and residual value in the LaMar equipment;

b. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that the AID master tape program was ready to market in its then-existing format and would readily achieve a substantial market share in its target market.

d. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the AID master tape program was new and original, and therefore qualified for investment tax credits;

e. The packager and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that Digitize and Robrech, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the AID master tape and thereby generate revenues for the LaMar partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

f. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that Ward had met with the management and staff of Robrech and Digitize,

had become familiar with the contents of the AID program, and had conducted independent research into the marketability of the AID master tape;

g. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Berlent Industries and Berlent, in the Berlent-LaMar appraisal, represented that the residual value and useful life attributed to the LaMar equipment were reasonable and accurate;

h. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, and Ward, in the Ward-LaMar appraisal, represented that the fair market value and useful life attributed to the AID master tape were reasonable and accurate;

i. The packagers and Lampf, in the LaMar offering memorandum and the Lampf tax opinion, represented that the parties involved in the LaMar sale and lease transactions had no conflicts of interest not disclosed in the LaMar offering memorandum.

115. These representations were false and misleading in that:

a. The tax benefits and profits promised in the LaMar offering memorandum and in the Lampf tax opinion could not be realized by the LaMar plaintiffs;

b. the actual residual value and useful life of the LaMar equipment were substantially less than represented;

c. The actual fair market value and useful life of the AID master tape were substantially less than represented;

d. The AID master tape was not readily marketable in its target market without substantial modifications in format;

e. On information and belief, the AID master tape program was not new or original, and therefore not qualified for investment tax credits;

f. Robrech and Digitize did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the AID master tape;

g. On information and belief, before issuing the Ward-LaMar appraisal, Ward had not met with the management and staff of Robrech and Digitize, had not tested or run the AID program and was not familiar with its contents and operation, and had not independently or thoroughly researched the marketability of the AID master tape;

h. Ward was a principal in defendant LCI, and therefore had conflicts of interest not disclosed in the LaMar offering memorandum.

116. In making the representations described above, the following LaMar defendants failed to disclose the following material facts to the LaMar plaintiff:

a. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the actual residual value and useful life of the LaMar equipment were substantially less than represented in the LaMar offering memorandum and in the Berlent-LaMar appraisal;

b. The packagers, Lampf, Berlent Industries, and Berlent failed to disclose that the LaMar IBM equipment was likely to become obsolete shortly after it was purchased by the LaMar partnership in that IBM frequently announced the introduction of new, better systems that would render the equipment obsolete;

c. The packagers, Lampf, and Ward failed to disclose that the actual fair market value and useful life of the AID master tape program were substantially less than represented in the LaMar offering memorandum and in the Ward-LaMar appraisal;

d. The packagers, Lampf, and Ward failed to disclose that the Ward appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

e. The packagers, Lampf, and Ward failed to disclose that before issuing the Ward-LaMar appraisal, Ward had not met with the management and staff of Robrech and Digitize, had not tested or run the AID program and was not familiar with its contents and operation, and had not independently or adequately researched the marketability of the AID master tape;

f. The packagers, Lampf, and Ward failed to disclose that, in order to achieve the market share projected in the Ward-LaMar appraisal, the expenses of marketing the AID master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

g. The packagers and Lampf failed to disclose that Ward was a principal in defendant LCI and therefore had conflicts of interest not disclosed in the LaMar offering memorandum;

h. The packagers, Lampf, and Ward failed to disclose that Robrech and Digitize were undercapitalized and without sufficient skill, expertise, and personnel to market and license the AID master tape and generate revenues for the partnership;

i. The packagers, Lampf, and Ward failed to disclose that the AID master tape was not readily marketable in its target market with substantial modifications in format; and

j. The packagers and Lampf failed to disclose that the LaMar plaintiff would not be entitled to the tax benefits promised in the LaMar offering memorandum and the Lampf tax opinion.

117. Defendants Berlent, Berlent Industries, Ward, CSC, Alanthus, Robrech, and Digitize aided and abetted in the misrepresentations and omissions alleged above in that their roles in the LaMar partnership and their actions in

furtherance of these roles, as described in paragraphs 111b-f above, were an essential component of the fraud perpetrated on the LaMar plaintiff and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the LaMar plaintiff.

118. Beginning in and around November, 1979, and continuing until the present, the LaMar defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around April, 1980, the packager defendants arranged for The Lawrence Group to be engaged to act as consultant to the partnership and continually assured and represented to the LaMar plaintiff, through periodic reports from The Lawrence Group, that lease payments on the LaMar equipment lease were current and that diligent efforts were being made to market and obtain licensees for the AID master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

119. The LaMar plaintiff had no reason to question or doubt the accuracy of any of the representations made by the LaMar defendants, as described herein. The LaMar plaintiff had no reason to believe that the LaMar defendants omitted to state material facts, as described herein. The LaMar plaintiff was not aware of the true facts or the facts that the LaMar defendants omitted to state. The LaMar plaintiff was entitled to and did rely on the LaMar defendants' representations, as described herein, and would not have purchased any interests in the LaMar limited partnership had the misrepresentations of material

facts not been made or had the omissions of material fact not occurred.

120. The LaMar plaintiff did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March, 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

121. The LaMar plaintiff was duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the LaMar plaintiff and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 118 above. If the LaMar plaintiff or his agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 118 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that he did not have a claim for relief.

122. The LaMar plaintiff hereby tenders his limited partnership interest to the LaMar defendants.

• • •

COUNT II

(1934 Securities Exchange Act - Section 10(b))

129. The LaMar plaintiff realleges and incorporates by reference paragraphs 1-35, 110-122, above.

130. In connection with the sale of the limited partnership interests in LaMar Associates, defendants LCA, LCI, McKenna, Wellbrock, Heitmeyer, Ward, and Lampf (the "LaMar primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of

interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the LaMar plaintiff; made untrue statements of material fact, as described in paragraphs 114-115 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading as described in paragraph 116 above, and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the LaMar plaintiff.

131. The LaMar primary violators, and each of them, knew of the falsity of the representations described in paragraph 114 above, or recklessly failed to ascertain the truth of the representations. The LaMar primary violators knew of the omissions of material fact described in paragraph 116 above, or recklessly failed to disclose these facts.

132. Defendants CSC, Alanthus, Berlent, Berlent Industries, Ward, Robrech, and Digitize (the "LaMar aiders and abettors") knew that their actions, as described in paragraphs 111b-f, 117 above, furthered and provided substantial assistance to the LaMar primary violators in committing a fraud on the LaMar plaintiff.

133. These defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

134. As a result of these acts, the LaMar plaintiff is entitled to recover damages equal to all sums paid for his investment, together with interest thereon since the date paid.

* * *

THIRD CLAIM FOR RELIEF -
MT. HOOD ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Mt. Hood plaintiffs.

190. The Mt. Hood plaintiffs reallege and incorporate by reference paragraphs 1-35 above.

191. The following plaintiffs invested in the Mt. Hood Associates limited partnership in the amounts and on the dates indicated below. They shall be referred to herein as the "Mt. Hood plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Bitar Bros.	9/80	$ 30,805.00
Loren E. Parks	9/22/80	184,830.00
David E. Howard, Sr.	9/80	30,805,00
Shirley S. Matchette	9/80	30,805.00
R & D Investment Co.	9/16/80	30,805.00
Willis Sprattling	9/23/80	30,805.00
Verne Adams	9/80	30,805.00
Claude Abouchedid	9/17/80	30,805.00
James H. Hambleton	9/80	30,805.00
Mark S. Kochevar	9/19/80	30,805.00
William R. Stewart	9/80	30,805.00

192. The following defendants participated in the Mt. Hood Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Mt. Hood defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Mt. Hood partnership and were responsible for, among other things, the following:

(1) creating a Connecticut limited partnership, which was subsequently renamed Mt. Hood Associates;

(2) conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) soliciting and arranging for the installation of a general partner for the partnership;

(4) soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) soliciting and procuring other Mt. Hood defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) soliciting and procuring the services of defendant Lampf to: act as special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Mt. Hood offering memorandum was based, and prepare, print, and distribute a model partnership agreement and model sales and lease agreements on which the Mt. Hood partnership agreement and sales and lease agreements were based; and

(7) instructing defendant Lampf w th respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. Defendant ACE was the immediate seller for the Mt. Hood partnership. As described in paragraph 6a above, in this capacity, it was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Mt. Hood equipment") purportedly consisted of an IBM 370/158 CPU and approximately 26 pieces of IBM peripheral equipment. The Mt. Hood partnership was to pay a total of $1,750,000 for this equipment. The master tape was of a software program known as the P-Stat Preprocessor Program ("P-STAT"), which was purportedly specially designed to allow computer programs written in the Fortran language to be economically adapted for use on most makes of computers, and was purportedly readily marketable for that function to major companies and other

businesses using several different makes of computers. The Mt. Hood partnership was to pay a total of $2,300,000 for this master tape. ACE played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by purchasing the Mt. Hood equipment and the P-STAT master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Mt. Hood partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. ACE was or should have been aware of its integral role in the Mt. Hood partnership and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself.

c. Defendant Analysis was the equipment seller/lessee for the Mt. Hood Associates partnership. As described in paragraph 6a above, in this capacity, it was the entity that sold the IBM equipment to the immediate seller, ACE, for release to the Mt. Hood partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the Mt. Hood equipment to the end user, which was represented to be the Russell Corporation, and was to re-lease the equipment to a subsequent end user when the existing user lease expired. Defendant Anico was the parent corporation and a controlling person of Analysis. Defendants Hernandez and Chandler were officers and controlling persons of Analysis. Analysis played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by selling the Mt. Hood equipment to ACE for resale to the Mt. Hood partnership, it further obscured the original purchase price of the equipment, provided part of the jus-

tification for the inflated price the partnership was to pay for the equipment, and provided the illusion that ACE had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Analysis also added credence to the reasonableness of the end user lease terms described in the Mt. Hood offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Analysis also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to release the equipment at the expiration of the end user lease, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Analysis was or should have been aware of its integral role in the Mt. Hood partnership and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself.

d. Defendant P-Stat was the master tape lessee for the Mt. Hood partnership. As described in paragraph 6b above, in this capacity, it was the entity that leased the P-STAT master tape back from the Mt. Hood partnership and was to market and obtain licensees for the use of the master tape. Defendant Buhler Software was an affiliate of P-Stat Software and was the master tape seller for the Mt. Hood partnership. As described in paragraph 6b above, in this capacity, it was the entity that sold the P-STAT master tape to ACE, the immediate seller, for resale to the Mt. Hood partnership. Defendant Buhler was the owner and controlling person of Buhler Software and P-Stat. Buhler Software, P-Stat and/or Buhler had purportedly developed the P-STAT software program and had purported expertise in marketing the P-STAT master tape. On information and belief, Buhler formed Buhler Software and/or P-Stat solely for purposes of participating in the Mt. Hood partnership. Buhler Software and Buhler played

an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by selling the P-STAT master tape to ACE for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if ACE had purchased the tape from an independent third party in an arm's length, negotiated transaction. P-Stat and Buhler played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that, by virtue of their purported expertise in the P-STAT software program and in the marketing of this software, they appeared capable of successfully exploiting the P-STAT master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Buhler Software, P-Stat, and Buhler were or should have been aware of their integral role in the Mt. Hood partnership and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves.

e. Defendant Texcom was the equipment appraiser for the Mt. Hood partnership. Defendant Johnson was the president, owner, and controlling person of Texcom. Defendants Texcom and Johnson prepared a written appraisal of the Mt. Hood equipment, on or about July 31, 1980, (hereinafter "the Texcom appraisal") which appeared in the Mt. Hood offering memorandum, and which represented that the Mt. Hood equipment had a fair market value of $1.8 million, had a useful life in excess of nine years, and would have a residual value at the end of nine years in excess of $360,000. Texcom and Johnson played an integral and essential role in the fraud perpetrated upon the Mt. Hood plaintiffs in that the Texcom appraisal justified the inflated price the partnership was to pay for the Mt. Hood equipment and provided the limited partners with "independent" substantiation for the assumptions in

the Mt. Hood offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end user lease, from which the partnership would derive bonus rentals. Texcom and Johnson were or should have been aware that the Texcom appraisal would be disseminated to prospective investors in Mt. Hood Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Texcom appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Mt. Hood equipment.

f. Defendant ConServ was the master tape appraiser for the Mt. Hood partnership. Defendant Steinberger was the president and controlling person of ConServ. Defendants ConServ and Steinberger prepared a written appraisal of the P-STAT master tape, on or about August 1, 1980, (hereinafter "the ConServ appraisal") which appeared in the Mt. Hood offering memorandum, and which represented that the fair market value of the P-STAT master tape to be purchased from Buhler Software and leased to P-Stat was in excess of $2.4 million, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Mt. Hood partnership was paying for the P-STAT master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Steinberger had met with the management and technical staff of Buhler Software and P-Stat, had examined in detail the contents of the P-STAT master tape, and had discussed with Buhler Software and P-Stat the underlying objective of the P-STAT program, its current development and operational status, and the market segment that could benefit from licensing the P-STAT master tape. ConServ and Steinberger played an integral and essential role in the fraud

perpetrated upon the Mt. Hood plaintiffs in that the ConServ appraisal justified the inflated price the partnership was to pay for the P-STAT master tape and provided the limited partners with "independent" substantiation for the assumptions in the Mt. Hood offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the P-STAT master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least nine years. ConServ and Steinberger were or should have been aware that the ConServ appraisal would be disseminated to prospective investors in Mt. Hood Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the ConServ appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value and useful life of the P-STAT master tape.

g. Defendant Lampf was the special tax counsel for the Mt. Hood partnership. In this capacity, Lampf issued a special written tax opinion for the Mt. Hood partnership, on or about October, 1980, (hereinafter "the Lampf tax opinion") which appeared in the Mt. Hood offering memorandum, and upon which the Mt. Hood plaintiffs relied in making their investment in Mt. Hood Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax consequences to limited partners who had invested capital in Mt. Hood Associates. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Mt. Hood offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the Mt. Hood Associates partnership agreement and sales and lease agreements were based.

193. Beginning in or around August, 1980, and continuing to the present, the Mt. Hood defendants, in concert

and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Mt. Hood plaintiffs in connection with the sale of limited partnership interests in Mt. Hood Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Mt. Hood computer equipment and master tape described above. This program was purportedly designed to general substantial tax benefits to the Mt. Hood investors, in addition to income and profits.

194. The Mt. Hood plaintiffs were induced to invest in Mt. Hood Associates by means of an offering memorandum dated August 1, 1980 (hereinafter "the Mt. Hood offering memorandum"), which included the Lampf tax opinion, the Texcom appraisal, and the ConServ appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 192b above, the end user that was purportedly already leasing this equipment, as described in paragraph 192c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 192b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 192e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Steinberger, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership. This offering memorandum also stated that defendant Lampf had acted in the past, and anticipated acting in the future, as counsel to other partnerships in which some or all of the participants in the Mt. Hood partnership had been, or would be, involved.

195. In connection with the sale of interests in Mt. Hood Associates to the Mt. Hood plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial tax benefits, as well as profit resulting from fees generated from licensing the P-STAT master tape and from the lease income and residual value in the Mt. Hood equipment;

b. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the Mt. Hood equipment existed, was specifically identified, and was already under lease to the Russell Corporation on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the ConServ appraisal, represented that the P-STAT master tape program was ready to market in its then-existing format and would readily achieve a significant market share in its target market;

e. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, represented that the P-STAT master tape program was new and original, and therefore qualified for investment tax credits;

f. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the ConServ appraisal, represented that P-Stat and Buhler Software, the master tape lessee

and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the P-STAT master tape and thereby generate revenues for the Mt. Hood partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

g. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the Con-Serv appraisal, represented that Steinberger had met with the management and staff of Buhler Software and P-Stat, and had become familiar with the contents and operation of the P-STAT program and the marketing potential of the P-STAT master tape;

h. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and Texcom and Johnson, in the Texcom appraisal, represented that the fair market value, residual value, and useful life attributed to the Mt. Hood equipment were reasonable and accurate;

i. The packagers and Lampf, in the Mt. Hood offering memorandum and the Lampf tax opinion, and ConServ and Steinberger, in the ConServ appraisal, represented that the fair market value and useful life attributed to the P-STAT master tape were reasonable and accurate.

196. These representations were false and misleading in that:

a. The IBM computer equipment described in the Mt. Hood offering memorandum did not exist or was not under lease to the end user, the Russell Corporation, as represented;

b. The tax benefits and profits promised in the Mt. Hood offering memorandum and in the Lampf tax opinion could not be realized by the Mt. Hood plaintiffs;

c. The actual fair market value, residual value, and useful life of the Mt. Hood equipment were substantially less than represented;

d. The actual fair market value and useful life of the P-STAT master tape were substantially less than represented;

e. The P-STAT master tape was not readily marketable in its target market without substantial modifications in format;

f. On information and belief, the P-STAT master tape program was not new or original, and therefore not qualified for investment tax credits;

g. Buhler Software and P-Stat did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the P-STAT master tape;

h. On information and belief, before issuing the ConServ appraisal, Steinberger had not met with the management and staff of Buhler Software and P-Stat, had not tested or run the P-STAT program and was not familiar with its contents and operation, and had not thoroughly investigated the marketability of the P-STAT master tape.

197. In making the representations described above, the following Mt. Hood defendants failed to disclose the following material facts to the Mt. Hood plaintiffs:

a. The packagers and Lampf failed to disclose that the IBM equipment described in the Mt. Hood offering memorandum was not in fact the equipment owned by ACE or Analysis and purchased by the partnership;

b. The packagers and Lampf failed to disclose that the IBM equipment described in the Mt. Hood offering memorandum was not currently under lease to the Russell Corporation, the purported end user;

c. The packagers, Lampf, Texcom, and Johnson failed to disclose that the actual fair market value, residual value,

and useful life of the Mt. Hood equipment were substantially less than represented in the Mt. Hood offering memorandum and in the Texcom appraisal;

d. The packagers, Lampf, Texcom, and Johnson failed to disclose that they had not performed any investigation to examine the equipment or to verify its existence and condition;

e. The packagers, Lampf, Texcom, and Johnson failed to disclose that the Mt. Hood IBM equipment was essentially obsolete at the time it was purchased by the Mt. Hood partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

f. The packagers, Lampf, ConServ, and Steinberger failed to disclose that the actual fair market value and useful life of the P-STAT master tape were substantially less than represented in the Mt. Hood offering memorandum and in the ConServ appraisal;

g. The packagers, Lampf, ConServ, and Steinberger failed to disclose that the ConServ appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

h. The packagers, Lampf, ConServ, and Steinberger failed to disclose that before issuing the ConServ appraisal, Steinberger had not met with the management and staff of Buhler Software and P-Stat, had not tested or run the P-STAT program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the P-STAT master tape;

i. The packagers, Lampf, ConServ, and Steinberger failed to disclose that, in order to achieve the market share projected in the ConServ appraisal, the expenses of marketing the P-STAT master tape would be enormous, and that these expenses would need to be paid out of any

gross revenues received from licensing the master tape before any profit could be returned to the partnership;

j. The packagers, Lampf, ConServ, and Steinberger failed to disclose that Buhler Software and P-Stat were under-capitalized and without sufficient skill, expertise, and personnel to market and license the P-STAT master tape and generate revenues for the partnership;

k. The packagers, Lampf, ConServ, and Steinberger failed to disclose that the P-STAT master tape was not readily marketable in its target market without substantial modifications in format; and

l. The packagers and Lampf failed to disclose that the Mt. Hood plaintiffs would not be entitled to the tax benefits promised in the Mt. Hood offering memorandum and the Lampf tax opinion.

198. Defendants Johnson, Texcom, ConServ, Steinberger, ACE, Analysis, Hernandez, Chandler, Anico, Buhler Software, P-Stat, and Buhler aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Mt. Hood partnership and their actions in furtherance of these roles, as described in paragraphs 192b-f above, were an essential component of the fraud perpetrated on the Mt. Hood plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Mt. Hood plaintiffs.

199. Beginning in and around August, 1980, and continuing until the present, the Mt. Hood defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around February, 1981, the packager defendants arranged for Mr. Steinberger to be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Mt.

Hood plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Mt. Hood equipment lease were current and that diligent efforts were being made to market and obtain licensees for the P-STAT master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they attributed to unanticipated events or market trends.

200. In or around August, 1982, the Mt. Hood partnership sought to rescind its purchase of the P-STAT master tape because efforts to obtain licensees for the master tape had not been as successful as hoped. In or around October, 1982, in connection with this rescission and in an effort to mislead the Mt. Hood limited partners and to conceal the fraud alleged herein, the packagers and/or their attorney, Michael Dell, represented to and assured the attorneys for the Mt. Hood partnership, Burt & Hagen, P.C., that the marketing difficulties encountered by the master tape marketers were the result of unforeseen circumstances and that the packagers stood behind the representations in the Mt. Hood offering memorandum. In a further effort to lull the Mt. Hood limited partners and to conceal the fraud alleged herein, the packagers arranged for the seller of the P-STAT master tape to repurchase the tape at no loss to the partnership, and procured a substitute real estate investment for the partnership.

201. The Mt. Hood plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Mt. Hood defendants, as decribed herein. The Mt. Hood plaintiffs had no reason to believe that the Mt. Hood defendants omitted to state material facts, as described herein. The Mt. Hood plaintiffs were not aware of the true facts or the facts that the Mt. Hood defendants omitted to state. The Mt. Hood plaintiffs were entitled to and did

rely on the Mt. Hood defendants' representations, as described herein, and would not have purchased any interests in the Mt. Hood limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

202. The Mt. Hood plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March, 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

203. The Mt. Hood plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Mt. Hood plaintiffs and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 199-200 above. If the Mt. Hood plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 199-200 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

204. The Mt. Hood plaintiffs hereby tender their limited partnership interests to the Mt. Hood defendants.

* * *

COUNT II

(1934 Securities Exchange Act - Section 10(b))

211. The Mt. Hood plaintiffs reallege and incorporate by reference paragraphs 1-35, 191-204, above.

212. In connection with the sale of the limited partnership interests in Mt. Hood Associates, defendants LCI,

LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf (the "Mt. Hood primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Mt. Hood plaintiffs; untrue statements of material fact, as described in paragraphs 195-196 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 197 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Mt. Hood plaintiffs.

213. The Mt. Hood primary violators, and each of them, knew of the falsity of the representations described in paragraph 195 above, or recklessly failed to ascertain the truth of the representations. The Mt. Hood primary violators knew of the omissions of material fact described in paragraph 197 above, or recklessly failed to disclose these facts.

214. Defendants ACE, Analysis, Hernandez, Chandler, Anico, Johnson, TexCom, Buhler, Buhler Software, P-Stat, ConServ, and Steinberger, (the "Mt. Hood aiders and abettors") knew that their actions, as described in paragraphs 192b-f, 198 above, furthered and provided substantial assistance to the primary violaters in committing a fraud on the Mt. Hood plaintiffs.

215. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

216. As a result of these acts, the Mt. Hood plaintiffs are entitled to recover damages equal to all sums paid for their investment, together with interest thereon since the date paid.

FOURTH CLAIM FOR RELIEF - COLUMBIA ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Columbia plaintiffs.

271. The Columbia plaintiffs reallege and incorporate by reference paragraphs 1-35 above.

272. The following plaintiffs invested in the Columbia Associates limited partnership in the amounts and on the dates indicated below. They shall be referred to herein as the "Columbia plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Merle Hanset	12/80	$26,805.00
Gordon S. Gleason	12/80	26,805.00
Carl L.J. Golder	12/80	26,805.00
Lee C. Golder	12/80	26,805.00

273. The following defendants participated in the Columbia Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Columbia defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Columbia partnership and were responsible for, among other things, the following:

(1) creating a Connecticut limited partnership, which was subsequently renamed Columbia Associates;

(2) conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) soliciting and arranging for the installation of a general partner for the partnership;

(4) soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) soliciting and procuring other Columbia defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) soliciting and procuring the services of defendant Lampf to: act as special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Columbia offering memorandum was based, and prepare, print, and distribute a model partnership agreement and model sales and lease agreements on which the Columbia partnership agreement and sales and lease agreements were based; and

(7) instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. In addition to its role as a packager, defendant LCI was also the immediate seller for the Columbia partnership. As described in paragraph 6a above, in this capacity, it was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Columbia equipment") purportedly consisted of two IBM 370/158 CPU's, an IBM Printing Subsystem, and approximately thirteen pieces of IBM peripheral equipment. The Columbia partnership was to pay a total of $1,450,000 for this equipment. The master tape was of a software program known as Office Automation System ("OAS"), which was purportedly specially designed to perform basic accounting functions, such as payroll and receivables, on Xerox and Wang word processing units, and was purportedly readily marketable to businesses having those makes of word processing units. The Columbia partnership was to pay a total of $1,950,000 for this master tape. Defendants McKenna, Heitmeyer, Wellbrock, and Ward were principals and controlling persons of defendant LCI. LCI played

an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, by purchasing the Columbia equipment and the OAS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Columbia partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. LCI was or should have been aware of its integral role in the Columbia partnership and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself.

c. Defendant Analysis was the equipment seller/lessee for the Columbia partnership. As described in paragraph 6a above, in this capacity, it was the entity that sold the Columbia equipment to the immediate seller, LCI, for resale to the Columbia partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end users, which were represented to be W.R. Grace & Company, Westinghouse Electric Corporation, and Spring Mills, Inc., and was to re-lease the equipment to one or more subsequent end users when the existing user leases expired. Defendant Anico was the parent corporation and a controlling person of Analysis. Defendants Hernandez and Chandler were officers and controlling persons of Analysis. Analysis played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, by selling the Columbia equipment to LCI for resale to the Columbia partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that LCI

had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Analysis also added credence to the reasonableness of the end user lease terms described in the Columbia offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Analysis also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end user leases, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Analysis was or should have been aware of its integral role in the Columbia partnership and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself.

d. Defendant SSWPI was the master tape lessee for the Columbia partnership. As described in paragraph 6b above, in this capacity, it was the entity that leased the OAS master tape back from the Columbia partnership and was to market and obtain licensees for the use of the master tape. Defendant Rosen Associates was an affiliate of SSWPI and was the master tape seller for the Columbia partnership. As described in paragraph 6b above, in this capacity, it was the entity that sold the OAS master tape to LCI, the immediate seller, for resale to the Columbia partnership. Defendant Rosen was the owner and controlling person of Rosen Associates and SSWPI. Rosen Associates, SSWPI, and/or Rosen had purportedly developed the OAS software program and had purported expertise in marketing the OAS master tape. On information and belief, Rosen formed Rosen Associates and/or SSWPI solely for purposes of participating in the Columbia partnership. Rosen Associates and Rosen played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, by selling the OAS master tape

to LCI for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if LCI had purchased the tape from an independent third party in an arm's length, negotiated transaction. SSWPI and Rosen played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that, by virtue of their purported expertise in the OAS software program and in the marketing of this software, they appeared capable of successfully exploiting the OAS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Rosen Associates, SSWPI, and Rosen were or should have been aware of their integral role in the Columbia partnership and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves.

e. Defendant Computer Value was the equipment appraiser for the Columbia partnership. Defendant Cuthbert was the president and controlling person of Computer Value. Defendants Computer Value and Cuthbert prepared a written appraisal of the Columbia equipment, on or about September 29, 1980 (hereinafter "the Cuthbert-Columbia appraisal") which appeared in the Columbia offering memorandum, and which represented that the Columbia equipment had a fair market value of 1.5 million, a useful life in excess of nine years, and a residual value at the end of nine years in excess of $300,000. Computer Value and Cuthbert played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that the Cuthbert-Columbia appraisal justified the inflated price the partnership was to pay for the Columbia equipment and provided the limited partners with "independent" substantiation for the assumptions in the Columbia offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the equipment was

reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end user leases, from which the partnership would derive bonus rentals. Computer Value and Cuthbert were or should have been aware that the Cuthbert-Columbia appraisal would be disseminated to prospective investors in Columbia Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Cuthbert-Columbia appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Columbia equipment.

f. Defendant TMS was the master tape appraiser for the Columbia partnership. Defendant Turi was the president and controlling person of TMS. Defendants TMS and Turi prepared a written appraisal of the OAS master tape, on or about October 31, 1980, (hereinafter "the TMS-Columbia appraisal") which appeared in the Columbia offering memorandum, and which represented that the fair market value of the OAS master tape to be purchased from Rosen Associates and leased to SSWPI was in excess of $3.4 million, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Columbia partnership was paying for the OAS master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Turi had met with the management and technical staff of Rosen Associates and SSWPI, had examined in detail the contents of the OAS master tape, and had discussed with Rosen Associates and SSWPI the underlying objectives of the OAS program, its current development and operational status, the marketing plans contemplated by SSWPI, and the market segments that could benefit from licensing the OAS master tape. TMS and Turi played an integral and essential role in the fraud perpetrated upon the Columbia plaintiffs in that the TMS-Columbia appraisal justified the inflated price the partnership was to pay for the OAS

master tape and provided the limited partners with "independent" substantiation for the assumptions in the Columbia offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the OAS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least nine years. TMS and Turi were or should have been aware that the TMS-Columbia appraisal would be disseminated to prospective investors in Columbia Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the TMS-Columbia appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value and useful life of the OAS master tape.

g. Defendant Lampf was the special tax counsel for the Columbia partnership. In this capacity, Lampf issued a special written tax opinion for the Columbia partnership, on or about October, 1980, (hereinafter "the Lampf tax opinion") which appeared in the Columbia offering memorandum, and upon which the Columbia plaintiffs relied in making their investment in Columbia Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax consequences to limited partners who had invested capital in Columbia Associates. Lampf was paid at least $20,000 for preparing this tax option. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Columbia offering memorandum was based. Lampf also prepared, printd, and distributed a model partnership agreement and model sales and lease agreements, on which the Columbia partnership agreement and sale lease agreements were based.

274. Beginning in or around November, 1980, and continuing to the present, the Columbia defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Columbia plaintiffs in connection with the sale of limited

partnership interests in Columbia Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and lease-back the Columbia computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Columbia investors, in addition to income and profits.

275. The Columbia plaintiffs were induced to invest in Columbia Associates by means of an offering memorandum dated November 14, 1980, and a supplemental offering memorandum dated December 29, 1980 (hereinafter collectively "the Columbia offering memorandum"), which included the Lampf tax opinion, the Cuthbert-Columbia appraisal, and the TMS-Columbia appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 273b above, the end users that were purportedly already leasing this equipment, as described in paragraph 273c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 273b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 273e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Turi, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership.

276. The Columbia offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Columbia partnership had been, or

would be, involved. This offering memorandum also stated that defendant Lampf had acted in the past, and anticipated acting in the future, as counsel to other partnerships in which some or all of the participants in the Columbia partnership had been, or would be, involved.

277. In connection with the sale of interests in Columbia Associates to the Columbia plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial tax benefits, as well as profit resulting from fees generated from licensing the OAS master tape and from the lease income and residual value in the Columbia equipment;

b. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Columbia appraisal, represented that the Columbia equipment existed, was specifically identified, and was already under lease to W.R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc. on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that the OAS master tape program was ready to be marketed in its then-existing format and would readily achieve a substantial market share in its target market;

e. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that

the OAS master tape program was new and original, and therefore qualified for investment tax credits;

f. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that SSWPI and Rosen Associates, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the OAS master tape and thereby generate revenues for the Columbia partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership.

g. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that Turi had met with the management and staff of Rosen Associates and SSWPI, and had become familiar with the contents and operation of the OAS program and the marketing potential of the OAS master tape;

h. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Columbia appraisal, represented that the fair market value, residual value, and useful life attributed to the Columbia equipment were reasonable and accurate;

i. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that the fair market value and useful life attributed to the OAS master tape were reasonable and accurate.

278. These representations were false and misleading in that:

a. The IBM computer equipment described in the Columbia offering memorandum did not exist or was not

under lease to the end users, W.R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc., as represented;

b. The tax benefits and profits promised in the Columbia offering memorandum and in the Lampf tax opinion could not be realized by the Columbia plaintiffs;

c. The actual fair market value, residual value, and useful life of the Columbia equipment were substantially less than represented;

d. The actual fair market value and useful life of OAS master tape were substantially less than represented;

e. The OAS master tape was not readily marketable in its target market without substantial modifications informat;

f. On information and belief, the OAS master tape program was not new or original, and therefore not qualified for investment tax credits;

g. Rosen Associates and SSWPI did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the OAS master tape;

h. On information and belief, before issuing the TMS-Columbia apraisal, Turi had not met with the management and staff of Rosen Associates and SSWPI, had not tested or run the OAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the OAS master tape.

279. In making the representations described above, the following Columbia defendants failed to disclose the following material facts to the Columbia plaintiffs:

a. The packagers and Lampf failed to disclose that the IBM equipment described in the Columbia offering memorandum was not in fact the equipment owned by LCI or Analysis and purchased by the partnership;

b. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the IBM equipment described

in the Columbia offering memorandum was not currently under lease to W.R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc., the purported end users;

c. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the actual fair market value, residual value, and useful life of the Columbia equipment were substantially less than represented in the Columbia offering memorandum and in the Cuthbert-Columbia appraisal;

d. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that they had not performed any investigation to examine the Columbia equipment or to verify its existence and condition;

e. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the Columbia IBM equipment was essentially obsolete at the time it was purchased by the Columbia partnership in that IBM had already announced the introduction of new, better systems that wou.d render the equipment obsolete;

f. The packagers, Lampf, TMS, and Turi failed to disclose that the actual fair market value and useful life of the OAS master tape were substantially less than represented in the Columbia offering memorandum and in the TMS-Columbia appraisal;

g. The packagers, Lampf, TMS, and Turi failed to disclose that the TMS-Columbia appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

h. The packagers, Lampf, TMS, and Turi failed to disclose that before issuing the TMS-Columbia appraisal, Turi had not met with the management and staff of Rosen Associates and SSWPI, had not tested or run the OAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the OAS master tape;

i. The packagers, Lampf, TMS, and Turi failed to disclose that, in order to achieve the market share projected in the TMS-Columbia appraisal, the expenses of marketing the OAS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

j. The packagers, Lampf, TMS, and Turi failed to disclose that Rosen Associates and SSWPI were undercapitalized and without sufficient skill, expertise, and personnel to market and license the OAS master tape and generate revenues for the partnership;

k. The packagers, Lampf, TMS, and Turi failed to disclose that the OAS master tape was not readily marketable in its target market without substantial modifications in format; and

l. The packagers and Lampf failed to disclose that the Columbia plaintiffs would not be entitled to the tax benefits promised in the Columbia offering memorandum and the Lampf tax opinion.

280. Defendants Cuthbert, Computer Value, TMS, Turi, LCI, Analysis, Hernandez, Chandler, Anico, Rosen Associates, SSWPI, and Rosen aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Columbia partnership and their actions in furtherance of these roles, as described in paragraphs 273b-f above, were an essential component of the fraud perpetrated on the Columbia plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf, in committing a fraud on the Columbia plaintiffs.

281. Beginning in and around November, 1980, and continuing until the present, the Columbia defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and

omissions described herein. In furtherance of this scheme and conspiracy, in or around April, 1981, the packager defendants arranged for Mr. Turi be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Columbia plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Columbia equipment lease were current and that diligent efforts were being made to market and obtain licensees for the OAS master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

282. The Columbia plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Columbia defendants, as described herein. The Columbia plaintiffs had no reason to believe that the Columbia defendants omitted to state material facts, as described herein. The Columbia plaintiffs were not aware of the true facts or the facts that the Columbia defendants omitted to state. The Columbia plaintiffs were entitled to and did rely on the Columbia defendants' representations, as described herein, and would not have purchased any interests in the Columbia limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

283. The Columbia plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March, 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

284. The Columbia plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Columbia plaintiffs and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 281 above. If the Columbia plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 281 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

285. The Columbia plaintiffs hereby tender their limited partnership interests to the Columbia defendants.

• • •

COUNT II

(1934 Securities Exchange Act - Section 10(b))

292. The Columbia plaintiffs reallege and incorporate by reference paragraphs 1-35, 272-285, above.

293. In connection with the sale of the limited partnership interests in Columbia Associates, defendants LCI, LCA, McKenna, Wellbrock, Ward, and Lampf (the "Columbia primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Columbia plaintiffs; made untrue statements of material fact, as described in paragraphs 277-278 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 279 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Columbia plaintiffs.

294. The Columbia primary violators, and each of them, knew of the falsity of the representations described in paragraph 277 above, or recklessly failed to ascertain the truth of the representations. The Columbia primary violators knew of the omissions of material fact described in paragraph 279 above, or recklessly failed to disclose these facts.

295. Defendants Analysis, Hernandez, Chandler, Anico, LCI, Computer Value, Cuthbert, Rosen Associates, SSWPI, Rosen, TMS, and Turi (the Columbia "aiders and abettors") knew that their actions, as described in paragraphs 273b-f, 280 above, furthered and provided substantial assistance to the Columbia primary violators in committing a fraud on the Columbia plaintiffs.

296. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

297. As a result of these acts, the Columbia plaintiffs are entitled to recover damages equal to all sums paid for their investment, together with interest thereon since the date paid.

* * *

FIFTH CLAIM FOR RELIEF - SALEM ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Salem plaintiffs.

352. The Salem plaintiffs reallege and incorporate by reference paragraphs 1-35 above.

353. The following plaintiffs invested in the Salem Associates limited partnership in the amounts and on the dates indicated below. They shall be referred to herein as the "Salem plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
Donald G. Brauer	12/23/80	$25,227.00
Beverly S. Knoblock	12/80	25,227.00
Richard H. Schweiger	12/22/80	25,227.00
Frank L. Whittaker	12/24/80	25,227.00
H. Wayne Thompson	12/80	25,227.00

354. The following defendants participated in the Salem Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Salem defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Salem partnership and were responsible for, among other things, the following:

(1) creating a Connecticut limited partnership, which was subsequently renamed Salem Associates;

(2) conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) soliciting and arranging for the installation of a general partner for the partnership;

(4) soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) soliciting and procuring other Salem defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) soliciting and procuring the services of defendant Lampf to: act as special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Salem offering memorandum was based, and prepare, print, and distribute a model partnership agreement and model sales and lease agreements, on which the Salem

partnership agreement and sales and lease agreements were based; and,

(7) instructing defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. In addition to its role as a packager, defendant LCI was also the immediate seller for the Salem partnership. As described in paragraph 6a above, in this capacity, it was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Salem equipment") purportedly consisted of three IBM 3800 Printing Subsystems. The Salem partnership was to pay a total of $1,115,000 for this equipment. The master tape was of a software program known as Insurance Brokers and Agents System ("IBAS"), which was purportedly specially designed for use by insurance offices to perform routine administrative and accounting functions, and was purportedly readily marketable within that industry. The Salem partnership was to pay a total of $1,900,000 for this master tape. Defendants McKenna, Heitmeyer, Wellbrock, and Ward were principals and controlling persons of defendant LCI. LCI played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by purchasing the Salem equipment and the IBAS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Salem partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. LCI was or should have been aware of its integral role in the Salem partnership and of the lack of economic substance in these transactions in that it both bought and sold the

equipment and master tape on the same day at a substantial profit with virtually no risk to itself.

c. Defendant Analysis was the equipment seller/lessee for the Salem partnership. As described in paragraph 6a above, in this capacity, it was the entity that sold the IBM equipment to the immediate seller, LCI, for resale to the Salem partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end user, which was represented to be the Coleman Company, and was to re-lease the equipment to a subsequent end user when the existing user lease expired. Defendant Anico was the parent corporation and a controlling person of Analysis. Defendants Hernandez and Chandler were officers and controlling persons of Analysis. Analysis played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by selling the Salem equipment to LCI for resale to the Salem partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that LCI had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Analysis also added credence to the reasonableness of the end user lease terms described in the Salem offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Analysis also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end user lease, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Analysis was or should have been aware of its integral role in the Salem partnership and of the lack of economic substance in these transactions in that it made a substantial profit

as a result of these transactions with little or no risk to itself.

d. Defendant Applications was the master tape lessee for the Salem partnership. As described in paragraph 6b above, in this capacity, it was the entity that leased the IBAS master tape back from the Salem partnership and was to market and obtain licensees for the use of the master tape. Defendant ASG was an affiliate of Applications and was the master tape seller for the Salem partnership. As described in paragraph 6b above, in this capacity, it was the entity that sold the IBAS master tape to LCI, the immediate seller, for resale to the Salem partnership. Defendant Pine was the president and controlling person of ASG and Applications. ASG, Applications, and/or Pine had purportedly developed the IBAS software program and had purported expertise in marketing the IBAS master tape. On information and belief, Pine formed ASG and/or Applications solely for purposes of participating in the Salem partnership. ASG and Pine played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by selling the IBAS master tape to LCI for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if LCI had purchased the tape from an independent third party in an arm's length, negotiated transaction. Applications and Pine played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that, by virtue of their purported expertise in the IBAS software program and in the marketing of this software, they appeared capable of successfully exploiting the IBAS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. ASG, Applications, and Pine were or should have been aware of their integral role in the Salem partnership and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result

of these transactions with little or no capital outlay and little or no risk to themselves.

e. Defendant Global was the equipment appraiser for the Salem partnership. Defendant Johnson was the president, owner, and controlling person of Global. Defendants Global and Johnson prepared a written appraisal of the Salem equipment, on or about November 24, 1980, (hereinafter "the Global appraisal") which appeared in the Salem offering memorandum, and which represented that the Salem equipment had a fair market value in excess of $1.115 million, that it had a useful life of nine years, and that at the end of nine years, it would have a residual value of $225,000. Global and Johnson played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that the Global appraisal justified the inflated price the partnership was to pay for the Salem equipment and provided the limited partners with "independent" substantiation for the assumptions in the Salem offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end user lease, from which the partnership would derive bonus rentals. Global and Johnson were or should have been aware that the Global appraisal would be disseminated to prospective investors in Salem Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Global appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Salem equipment.

f. Defendant TMS was the master tape appraiser for the Salem partnership. Defendant Turi was the president and controlling person of TMS. Defendants TMS and Turi prepared a written appraisal of the IBAS master tape, on or about November 26, 1980, (hereinafter "the TMS-Salem

appraisal") which appeared in the Salem offering memorandum, and which represented that the IBAS master tape to be purchased from ASG and leased to Applications had a fair market value in excess of $2,190,000, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Salem partnership was paying for the IBAS master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Turi had met with the management and technical staff of ASG and Applications, had examined in detail the contents of the IBAS master tape, and had discussed with ASG and Applications the underlying objectives of the IBAS program, its current development and operational status, the marketing plans contemplated by Applications, and the market segments that could benefit from licensing the IBAS master tape. TMS and Turi played an integral and essential role in the fraud perpetrated upon the Salem plaintiffs in that the TMS-Salem appraisal justified the inflated price the partnership was to pay for the IBAS master tape and provided the limited partners with "independent" substantiation for the assumptions in the Salem offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the IBAS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least nine years. TMS and Turi were or should have been aware that the TMS-Salem appraisal would be disseminated to prospective investors in Salem Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the TMS-Salem appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value and useful life of the IBAS master tape.

g. Defendant Lampf was the special tax counsel for the Salem partnership. In this capacity, Lampf issued a special written tax opinion for the Salem partnership, on

or about December, 1980, (hereinafter "the Lampf tax opinion") which appeared in the Salem offering memorandum, and upon which the Salem plaintiffs relied in making their investment in Salem Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax consequences to limited partners who had invested capital in Salem Associates. Lampf was paid at least $20,000 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Salem offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model partnership sales and lease agreements, on which the Salem Associates partnership agreement and sales and lease agreements were based.

355. Beginning in or around December, 1980, and continuing to the present, the Salem defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Salem plaintiffs in connection with the sale of limited partnership interests in Salem Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Salem computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Salem investors, in addition to income and profits.

356. The Salem plaintiffs were induced to invest in Salem Associates by means of an offering memorandum dated December 4, 1980 (hereinafter "the Salem offering memorandum"), which included the Lampf tax opinion, the Global appraisal, and the TMS-Salem appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 354b above, the end user that was purportedly already leasing this

equipment, as described in paragraph 354c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 354b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 354e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Turi, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership.

357. The Salem offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Salem partnership had been, or would be, involved. This offering memorandum also stated that defendant Lampf had acted in the past, and anticipated acting in the future, as counsel to other partnerships in which some or all of the participants the Salem partnership had been, or would be, involved.

358. In connection with the sale of interests in Salem Associates to the Salem plaintiffs, the following defendants represented the following:

a. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial tax benefits, as well as profit resulting from fees generated from licensing the IBAS master tape and from the lease income and residual value in the Salem equipment;

b. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, represented that the Lampf tax opinion supported the investors' entitlement

to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and Global and Johnson, in the Global appraisal, represented that the Salem equipment existed, was specifically identified, and was already under lease to the Coleman Company on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that the IBAS master tape program was ready to market in its then-existing format and would readily achieve a substantial market share in its target market;

e. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, represented that the IBAS master tape program was new and original, and therefore qualified for investment tax credits;

f. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that Applications and ASG, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the IBAS master tape and thereby generate revenues for the Salem partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

g. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that Turi had met with the management and staff of ASG and Applications, and had become familiar with the contents and

operation of the IBAS program and the marketing potential of the IBAS master tape;

h. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and Global and Johnson, in the Global appraisal, represented that the fair market value, residual value,, and useful life attributed to the Salem equipment were reasonable and accurate;

i. The packagers and Lampf, in the Salem offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Salem appraisal, represented that the fair market value and useful life attributed to the IBAS master tape were reasonable and accurate.

359. These representations were false and misleading in that:

a. the IBM computer equipment described in the Salem offering memorandum did not exist or was not under lease to the end user, the Coleman Company, as represented;

b. the tax benefits and profits promised in the Salem offering memorandum and in the Lampf tax opinion could not be realized by the Salem plaintiffs;

c. the actual fair market value, residual value, and useful life of the Salem equipment were substantially less than represented;

d. the actual fair market value and useful life of the IBAS master tape were substantially less than represented;

e. the IBAS master tape was not readily marketable in its target market without substantial modifications in format;

f. on information and belief, the IBAS master tape program was not new or original, and therefore not qualified for investment tax credits;

g. ASG and Applications did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the IBAS master tape;

h. on information and belief, before issuing the TMS-Salem appraisal, Turi had not met with the management and staff of ASG and Applications, had not tested or run the IBAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the IBAS master tape.

360. In making the representations described above, the following Salem defendants failed to discuss the following material facts to the Salem plaintiffs:

a. The packagers and Lampf failed to disclose that the IBM equipment described in the Salem offering memorandum was not in fact the equipment owned by LCI or Analysis and purchased by the partnership;

b. The packagers, Lampf, Global, and Johnson failed to disclose that the IBM equipment described in the Salem offering memorandum was not currently under lease to the Coleman Company, the purported end user;

c. The packagers, Lampf, Global, and Johnson failed to disclose that the actual fair market value, residual value, and useful life of the Salem equipment were substantially less than represented in the Salem offering memoranda and in the Global appraisal;

d. The packagers, Lampf, Global, and Johnson failed to disclose that they had not performed any investigation to examine the Salem equipment or to verify its existence and condition;

e. The packagers, Lampf, Global, and Johnson failed to disclose that the Salem IBM equipment was essentially obsolete at the time it was purchased by the Salem partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

f. The packagers, Lampf, TMS, and Turi failed to disclose that the actual fair market value and useful life of IBAS master tape were substantially less than represented in the Salem offering memorandum and in the TMS-Salem appraisal;

g. The packagers, Lampf, TMS, and Turi failed to disclose that the IBAS master tape was not readily marketable in its target market without substantial modifications in format;

h. The packagers, Lampf, TMS, and Turi failed to disclose that the TMS-Salem appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

i. The packagers, Lampf, TMS, and Turi failed to disclose that before issuing the TMS-Salem appraisal, Turi had not met with the management and staff of ASG and Applications, had not tested or run the IBAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the IBAS master tape;

j. The packagers, Lampf, TMS, and Turi failed to disclose that, in order to achieve the market share projected in the TMS-Salem appraisal, the expenses of marketing the IBAS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

k. The packagers, Lampf, TMS, and Turi failed to disclose that ASG and Applications were undercapitalized and without sufficient skill, expertise, and personnel to market and license the IBAS master tape and generate revenues for the partnership; and

l. The packagers and Lampf failed to disclose that the Salem plaintiffs would not be entitled to the tax benefits

promised in the Salem offering memorandum and the Lampf tax opinion.

361. Defendants Johnson, Global, TMS, Turi, LCI, Analysis, Hernandez, Chandler, Anico, ASG, Applications, and Pine aided and abetted the misrepresentations and omissions alleged above in that their roles in the Salem partnership and their actions in furtherance of these roles, as described in paragraphs 354b-f above, were an essential component of the fraud perpetrated on the Salem plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on the Salem plaintiffs.

362. Beginning in and around December, 1980, and continuing until the present, the Salem defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around April, 1981, the packager defendants arranged for Mr. Turi to be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Salem plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Salem equipment lease were current and that diligent efforts were being made to market and obtain licensees for the IBAS master tape, when in fact equipment lease payments owned to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

363. The Salem plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Salem defendants, as described herein. The Salem plaintiffs had no reason to believe that the Salem

defendants omitted to state material facts, as described herein. The Salem plaintiffs were not aware of the true facts or the facts that the Salem defendants omitted to state. The Salem plaintiffs were entitled to and did rely on the Salem defendants' representations, as described herein, and would not have purchased any interests in the Salem limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

364. The Salem plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March, 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

365. The Salem plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Salem plaintiffs and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 362 above. If the Salem plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 362 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

366. The Salem plaintiffs hereby tender their limited partnership interests to the Salem defendants.

* * *

COUNT II

(1934 Securities Exchange Act - Section 10(b))

373. The Salem plaintiffs reallege and incorporate by reference paragraphs 1-35, 353-366, above.

374. In connection with the sale of limited partnership interests in Salem Associates, defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf (the "Salem primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Salem plaintiffs; made untrue statements of material fact, as described in paragraphs 358-359 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 360 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Salem plaintiffs.

375. The Salem primary violators, and each of them, knew of the falsity of the representations described in paragraph 358 above, or recklessly failed to ascertain the truth of the representations. The Salem primary violators knew of the omissions of material fact described in paragraph 360 above, or recklessly failed to disclose these facts.

376. Defendants Analysis, Hernandez, Chandler, Anico, LCI, Global, Johnson, ASG, Applications, Pine, TMS, and Turi (the "Salem aiders and abettors") knew that their actions, as described in paragraphs 354b-f, 361 above, furthered and provided substantial assistance to the Salem primary violators in committing a fraud on the Salem plaintiffs.

377. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

378. As a result of these acts, the Salem plaintiffs are entitled to recover damages equal to all sums paid for

their investment, together with interest thereon since the date paid.

* * *

SIXTH CLAIM FOR RELIEF - TROY ASSOCIATES

The allegations in this Claim for Relief are made only on behalf of the Troy plaintiffs.

433. The Troy plaintiffs reallege and incorporate by reference paragraphs 1-35 above.

434. The following plaintiffs invested in the Troy Associates limited partnership in the amounts and on the dates indicated below. They shall be referred herein as the "Troy plaintiffs."

Plaintiff	Approximate Date of Investment	Approximate Total Amount Invested
John and Janice Gilbertson	6/81	$28,070.00
Donald H. Rundel	6/23/81	28,070.00
Cyril E. Harris	6/23/81	28,070.00
Thomas W. Hamilton	6/81	28,070.00
Thomas J. Hammond	6/81	14,035.00
Cameron & Wilson, a partnership	6/81	28,070.00
Charles F. Cameron	6/81	28,070.00
Peter C. Kirkman	6/81	28,070.00
Harold J. Peterson	6/81	28,070.00
George D. Morgan	6/81	14,035.00
Douglas E. Taylor	6/81	28,070.00
Donald J. DeFrancq	6/81	14,035.00
F. Paul Dickerson	6/81	56,140.00
Gary E. Grass	6/81	28,070.00
Richard G. Potter	6/25/81	28,070.00
Ernest DeFazio	6/29/81	28,070.00
Robert Scanlan	6/81	28,070.00

435. The following defendants participated in the Troy

Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Troy defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Troy partnership and were responsible for, among other things, the following:

(1) creating a Connecticut limited partnership, which was subsequently renamed Troy Associates;

(2) conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) soliciting and arranging for the installation of a general partner for the partnership;

(4) soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) soliciting and procuring other Troy defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) soliciting and procuring the services of defendant Arnheim & McCostis to act as general or special tax counsel for the partnership and to render a tax opinion for the partnership.

(7) instructing defendant Arnheim & McCostis with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. In addition to its role as a packager, defendant LCA was also the immediate seller for the Troy partnership. As described in paragraph 6a above, in this capacity, it was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Troy equipment") purportedly consisted of an IBM 370/168 CPU,

an IBM 303 CPU, and approximately nineteen pieces of IBM peripheral equipment. The Troy partnership was to pay a total of $1,400,000 for this equipment. The master tape was of a software program known as Patient Accounting and Billing System ("PABS"), which was purportedly specially designed for routine accounting use by medical and dental offices and readily marketable within that industry. The Troy partnership was to pay a total of $2,400,000 for this master tape. Defendant LCA was comprised of defendants McKenna, Heitmeyer, and Wellbrock. LCA played an integral and essential role in the fraud perpetrated upon the Troy plaintiffs in that, by purchasing the Troy equipment and the PABS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Troy partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. LCA was or should have been aware of its integral role in the Troy partnership and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself.

c. Defendant Rockwood was the equipment seller/lessee for the Troy partnership. As described in paragraph 6a above, in this capacity, it was the entity that sold the IBM equipment to the immediate seller, LCA, for resale to the Troy partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end users, which were represented to be C.I.T. Corporation and Spring Mills, Inc., and was to re-lease the equipment to one or more subsequent end users when the existing user leases expired. Defendants Karnoff, Marks, and Costello were officers and controlling persons of Rockwood. Rockwood played an integral and essential role in the fraud perpetrated upon the Troy plaintiffs in that, by selling the Troy equipment to LCA for resale to the Troy partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that LCA had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, also added credence to the reasonableness of the end user lease terms described in the Troy offering memorandum, and thus helped to substantiate the inf d price the partnership was to pay for the equipmen. As lessee of the equipment, Rockwood also provided the sale/leaseback scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end user leases, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Rockwood was or should have been aware of its integral role in the Troy partnership and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself.

d. Defendant Start Systems was the master tape lessee for the Troy partnership. As described in paragraph 6b above, in this capacity, it was the entity that leased the PABS master tape back from the Troy partnership and was to market and obtain licensees for the use of the master tape. Defendant Jeflen was an affiliate of Stuart Systems and was the master tape seller for the Troy partnership. As described in paragraph 6b above, in this capacity, it was the entity that sold the PABS master tape to LCA, the immediate seller, for resale to the Troy partnership. Defendants J. Feingold and L. Feingold were officers and controlling persons of Start Systems and Jeflen.

Jeflen, Start Systems, J. Feingold and/or L. Feingold had purportedly developed the PABS software program and had purported expertise in marketing the PABS master tape. On information and belief, J. Feingold and L. Feingold formed Jeflen and/or Start Systems solely for purposes of participating in the Troy partnership. Jeflen, J. Feingold, and L. Feingold played an integral and essential role in the fraud perpetrated upon the Troy plaintiffs in that, by selling the PABS master tape to LCA for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if LCA had purchased the tape from an independent third party in an arm's length, negotiated transaction. Start Systems, J. Feingold, and L. Feingold played an integral and essential role in the fraud perpetrated upon the Troy plaintiffs in that, by virtue of their purported expertise in the PABS software program and in the marketing of this software, they appeared capable of successfully exploiting the PABS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Jeflen, Start Systems, J. Feingold, and L. Feingold were or should have been aware of their integral role in the Troy partnership and of the lack of economic substance in these transactions in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves.

e. Defendant Computer Value was the equipment appraiser for the Troy partnership. Defendant Cuthbert was the president and controlling person of Computer Value. Defendants Computer Value and Cuthbert prepared a written appraisal of the Troy equipment, on or about February 25, 1981 (hereinafter "the Cuthbert-Troy appraisal") which appeared in the Troy offering memorandum, and which represented that the Troy equipment had a fair market value in excess of $1.45 million, that it had a useful life

of nine years, and that at the end of the nine years, it would have a residual value of at least $290,000. Computer Value and Cuthbert played an integral and essential role in the fraud perpetrated upon the Troy plaintiffs in that the Cuthbert-Troy appraisal justified the inflated price the partnership was to pay for the Troy equipment and provided the limited partners with "independent" substantiation for the assumptions in the Troy offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end user leases, from which the partnership would derive bonus rentals. Computer Value and Cuthbert were or should have been aware that the Cuthbert-Troy appraisal would be disseminated to prospective investors in Troy Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Cuthbert-Troy appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Troy equipment.

f. Defendant Information Industries was the master tape appraiser for the Troy partnership. Defendant Weber was an officer and controlling person of Information Industries. Defendants Information Industries and Weber prepared a written appraisal of the PABS master tape, on or about April 14, 1981, (hereinafter "the Weber appraisal") which appeared in the Troy offering memorandum, and which represented that the PABS master tape to be purchased from Jeflen and leased to Start Systems had a fair market value in excess of $2.6 million, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Troy partnership was paying for the PABS master tape was equal or close to this appraised fair market value. This appraisal also represented that defendant Weber had met

with the management of Jeflen and Start Systems, had examined in depth the design and structure of the PABS program, and had conducted an independent review of the potential market for the PABS master tape. Information Industries and Weber played an integral and essential role in the fraud perpetrated upon the Troy plaintiffs in that the Weber appraisal justified the inflated price the partnership was to pay for the PABS master tape and provided the limited partners with "independent" substantiation for the assumptions in the Troy offering memorandum on which the promised tax benefits were based, i.e., that the purchase price of the PABS master tape was reasonable, that the tape was potentially profitable, and that it had a useful life of at least nine years. Information Industries and Weber were or should have been aware that the Weber appraisal would be disseminated to prospective investors in Troy Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Weber appraisal in making their investment decisions and to substantiate, for tax purposes, the fair market value and useful life of the PABS master tape.

g. Defendant Arnheim & McCostis was the general or special tax counsel for the Troy partnership. In this capacity, Arnheim & McCostis issued a special written tax opinion for the Troy partnership, in or about April, 1981, (hereinafter "the Arnheim & McCostis tax opinion") which appeared in the Troy offering memorandum, and upon which the Troy plaintiffs relied in making their investment in Troy Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax consequences to limited partners who had invested capital in Troy Associates. Arnheim & McCostis was paid at least $32,500 for preparing this tax opinion.

436. Beginning in or around April, 1981, and continuing to the present, the Troy defendants, in concert and conspiracy with one another, employed or aided and abetted

a device, scheme, or artifice to defraud the Troy plaintiffs in connection with the sale of limited partnership interests in Troy Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and leaseback the Troy computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Troy investors, in addition to income and profits.

437. The Troy plaintiffs were induced to invest in Troy Associates by means of an offering memorandum dated April 15, 1981, (hereinafter "the Troy offering memorandum"), which included the Arneheim & McCostis tax opinion, the Cuthbert-Troy appraisal, and the Weber appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 435b above, the end users that were purportedly already leasing this equipment, as described in paragraph 435c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 435b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 435e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Weber, was to be hired by the partnership to act as a consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership.

438. The Troy offering memorandum also stated that the packager defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the partic-

ipants in the Troy partnership had been, or would be, involved.

439. In connection with the sale of interests in Troy Associates to the Troy plaintiffs, the following defendants represented the following:

a. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, represented that the limited partnership investment would provide substantial tax benefits, as well as profit resulting from fees generated from licensing the PABS master tape and from the lease income and residual value in the Troy equipment;

b. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, represented that the Arnheim & McCostis tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Troy appraisal, represented that the Troy equipment existed, was specifically identified, and was already under lease to C.I.T. Corporation and Spring Mills, Inc. on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, and Information Industries and Weber, in the Weber appraisal, represented that the PABS master tape program was ready to market in its then-existing format and would readily achieve a substantial market share in its target market;

e. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis

tax opinion, represented that the PABS master tape program was new and original, and therefore qualified for investment tax credits;

f. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, and Information Industries and Weber, in the Weber appraisal, represented that Start Systems and Jeflen, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the PABS master tape and thereby generate revenues for the Troy partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

g. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, and Information Industries and Weber, in the Weber appraisal, represented that Weber had met with the management of Jeflen and Start Systems, had become familiar with the design and structure of the PABS program, and had conducted independent research into the marketability of the PABS master tape;

h. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Troy appraisal, represented that the fair market value, residual value, and useful life attributed to the Troy equipment were reasonable and accurate;

i. The packagers and Arnheim & McCostis, in the Troy offering memorandum and the Arnheim & McCostis tax opinion, and Information Industries and Weber, in the Weber appraisal, represented that the fair market value and useful life attributed to the PABS master tape were reasonable and accurate.

440. These representations were false and misleading in that:

a. The IBM computer equipment described in the Troy offering memorandum did not exist or was not under lease to the end users, C.I.T. Corporation and Spring Mills, Inc., as represented;

b. The tax benefits and profits promised in the Troy offering memorandum and in the Arnheim & McCostis tax opinion could not be realized by the Troy plaintiffs;

c. The actual fair market value, residual value, and useful life of the Troy equipment were substantially less than represented;

d. The actual fair market value and useful life of the PABS master tape were substantially less than represented;

e. The PABS master tape was not readily marketable in its target market without substantial modifications in format;

f. On information and belief, the PABS master tape program was not new or original, and therefore not qualified for investment tax credits;

g. Start Systems and Jeflen did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the PABS master tape;

h. On information and belief, before issuing the Weber appraisal, Weber had not met with the management of Jeflen and Start Systems, had not tested or run the PABS program and was not familiar with its design and structure, and had not independently or adequately researched the marketability of the PABS master tape.

441. In making the representations described above, the following Troy defendants failed to disclose the following material facts to the Troy plaintiff;

a. The packagers and Arnheim & McCostis failed to disclose that the IBM equipment described in the Troy

offering memorandum was not in fact the equipment owned by LCA or Rockwood and purchased by the partnership;

b. The packagers, Arnheim & McCostis, Computer Value, and Cuthbert failed to disclose that the IBM equipment described in the Troy offering memorandum was not currently under lease to C.I.T. Corporation and Spring Mills, Inc., the purported end users;

c. The packagers, Arnheim & McCostis, Computer Value, and Cuthbert failed to disclose that the actual fair market value, residual value, and useful life of the Troy equipment were substantially less than represented in the Troy offering memorandum and in the Cuthbert-Troy appraisal;

d. The packagers, Arnheim & McCostis, Computer Value, and Cuthbert failed to disclose that they had not performed any investigation to examine the Troy equipment or to verify its existence and condition;

e. The packagers, Arnheim & McCostis, Computer Value, and Cuthbert failed to disclose that the Troy IBM equipment was essentially obsolete at the time it was purchased by the Troy partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

f. The packagers, Arnheim & McCostis, Information Industries, and Weber failed to disclose that the actual fair market value and useful life of the PABS master tape were substantially less than represented in the Troy offering memorandum and in the Weber appraisal;

g. The packagers, Arnheim & McCostis, Information Industries, and Weber failed to disclose that the Weber appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

h. The packagers, Arnheim & McCostis, Information Industries, and Weber failed to disclose that before issuing

the Weber appraisal, Weber had not met with the management of Jeflen and Start Systems, had not tested or run the PABS program and was not familiar with its design and structure, and had not independently or adequately researched the marketability of the PABS master tape;

i. The packagers, Lampf, Arnheim & McCostis, Information Industries, and Weber failed to disclose that the PABS master tape was not readily marketable in its target market without substantial modifications in format;

j. The packagers, Arnheim & McCostis, Information Industries, and Weber failed to disclose that, in order to achieve the market share projected in the Weber appraisal, the expenses of marketing the PABS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

k. The packagers, Arnheim & McCostis, Information Industries, and Weber failed to disclose that Start Systems and Jeflen were undercapitalized and without sufficient skill, expertise, and personnel to market and license the PABS master tape and generate revenues for the partnership; and

l. The packagers and Arnheim & McCostis failed to dislose that the Troy plaintiffs would not be entitled to the tax benefits promised in the Troy offering memorandum and the Arnheim & McCostis tax opinion.

442. Defendants Cuthbert, Computer Value, Weber, Information Industries, LCA, Rockwood, Karnoff, Marks, Costello, Start Systems, Jeflen, J. Feingold, and L. Feingold aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Troy partnership and their actions in furtherance of these roles, as described in paragraphs 435b-f above, were an essential

component of the fraud perpetrated on the Troy plaintiffs and provided substantial assistance to defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Arnheim & McCostis in committing a fraud on the Troy plaintiffs.

443. Beginning in and around April, 1981, and continuing until the present, the Troy defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and omissions described herein. In furtherance of this scheme and conspiracy, in or around September, 1981, the packager defendants arranged for Mr. Weber to be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Troy plaintiffs, through periodic reports from The Lawrence Group, that lease payments on the Troy equipment lease were current and that diligent efforts were being made to market and obtain licensees for the PABS master tape, when in fact equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

444. The Troy plaintiffs had no reason to question or doubt the accuracy of any of the representations made by the Troy defendants, as described herein. The Troy plaintiffs had no reason to believe that the Troy defendants omitted to state material facts, as described herein. The Troy plaintiffs were not aware of the true facts or the facts that the Troy defendants omitted to state. The Troy plaintiffs were entitled to and did rely on the Troy defendants' representations, as described herein, and would not have purchased any interests in the Troy limited partnership had the misrepresentations of material facts not

been made or had the omissions of material facts not occurred.

445. The Troy plaintiffs did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March, 1986, after some plaintiffs conducted an investigation of the programs described herein following questioning by the IRS or certain tax deductions they had claimed based upon their investment in these partnerships.

446. The Troy plaintiffs were duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and defendant Lampf attempted to and did mislead the Troy plaintiffs and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 443 above. If the Troy plaintiffs or their agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and defendant Lampf, as described in paragraphs 8 and 443 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

447. The Troy plaintiffs hereby tender their limited partnership interests to the Troy defendants.

* * *

COUNT II

(1934 Securities Exchange Act - Section 10(b)

454. The Troy plaintiffs reallege and incorporate by reference paragraphs 1-35, 434-447, above.

455. In connection with the sale of the limited partnership interests in Troy Associates, defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Arnheim & McCostis (the "Troy primary violators"), and each of them, directly or by indirect means, and by the use of instru-

mentalities of interstate commerce and by the use of the mails, employed a device, scheme, and artifice to defraud the Troy plaintiffs; made untrue statements of material fact, as described in paragraphs 439-440 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 441 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon the Troy plaintiffs.

456. The Troy primary violators, and each of them, knew of the falsity of the representations described in paragraph 439 above, or recklessly failed to ascertain the truth of the representations. The Troy primary violators knew of the omissions of material fact described in paragraph 441 above, or recklessly failed to disclose these facts.

457. Defendants Rockwood, Karnoff, Marks, Costello, LCA, Start Systems, Jeflen, J. Feingold, L. Feingold, Computer Value, Cuthbert, Information Industries, and Weber (the "Troy aiders and abettors"), knew that their actions, as described in paragraphs 435b-f, 442 above, furthered and provided substantial assistance to the Troy primary violators in committing a fraud on the Troy plaintiffs.

458. The defendant primary violators' and aiders and abettors' acts as described herein constitute a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j(b), and 17 C.F.R. 240.10b-5.

459. As a result of these acts, the Troy plaintiffs are entitled to recover damages equal to all sums paid for their investment, together with interest thereon since the date paid.

* * *

COMPLAINT IN *CATALAN* V. *PAULSON INVESTMENT CO., et al.*, Civ. No. 87-593-RE (D. ORE.)
(EXCERPTS)

• • •

JURISDICTION AND VENUE

1. Count I arises under Section 17 (a) (1) of the Securities Act of 1933, 15 U.S.C. § 77q (a) (1). Jurisdiction for Count I is conferred by 15 U.S.C. § 77v. Count II arises under Section 10 of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j and 17 C.F.R. 240.10 (b)-5. Jurisdiction for count II is conferred by U.S.C. § 78aa. Count IV, V and VI arise under the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO"), 18 U.S.C. §§ 1964. Jurisdiction for these Counts is conferred by 18 U.S.C. §§ 1964 and 1965. Jurisdiction for count III and Counts VII through XIV arise under the principles of pendent jurisdiction.

2. Venue is proper in this district in that the acts alleged herein took place in whole or in part in Oregon, including the sales of the securities described herein, and the Plaintiff's claim arose in this district.

DESCRIPTION OF THE PROGRAMS

3. This action arises out of the packaging, syndication, promotion and sale in Oregon of a tax shelter limited partnership interest to Plaintiff Anthony Catalan, As more particularly described herein, the tax shelter involved the purchase and lease back of certain IBM computer hardware equipment and certain so-called master tapes of computer software programs. The Plaintiff invested in the tax shelter by purchasing a limited partnership unit in a limited partnership known as Columbia Associates.

4. The Columbia Associates limited partnership was promoted and sold during the 1979, 1980 or 1981, to general partners and then to investors as "pre-packaged" programs. The Plaintiff purchased his limited partnership in-

terest through Lynn Hammersly of Defendant Paulson Investment Co., Inc. The Columbia Associates limited partnership had the following characteristics:

a. The partnership was packaged and promoted by the same group of six Defendants ("the packagers"), as described more particularly herein.

b. The partnership was comprised of 35 limited partnership "units" and was designed to raise approximately one million dollars.

c. The partnership was to enter into identically structured sale and lease back transactions with respect to the computer equipment and master tape, as described more particularly herein.

d. The partnership was created as a Connecticut limited partnership.

e. The offering memoranda used to promote and sell the partnerships were virtually identical in format and in content as other limited partnerships promoted and sold by Defendants in Oregon and elsewhere during this same time period.

f. The tax opinion, equipment appraisal and master tape appraisal contained in the offering memorandum was virtually identical in format and content as used in other offering memoranda of other limited partnerships promoted and sold by Defendants in Oregon and elsewhere during this same time period.

5. The Columbia Associates limited partnership was similar to at least twelve other tax shelter limited partnerships packaged and promoted by the packager Defendants in Oregon and elsewhere during this same time period, including the limited partnerships known as Troy Associates, Runnels Associates, Lake Associates, Mars Associates, Victoria Associates, Travis Associates, K-T Associates, Bandera Associates, Evergreen Associates, Celica Associates, Maverick Associates, and Yoakum Associates.

6. The tax benefits purportedly to be derived from investing in the Columbia Associates limited partnership described herein was to be achieved through a complex series of purchase, sale and lease back transactions, structured and arranged by the packager Defendants. As described in the offering memoranda used to promote and sell the investments, these transactions were to be structured as follows:

a. The Equipment Transactions

(1) The partnership was to purchase certain specified IBM computer hardware equipment (the "equipment") from an identified entity. This entity was the immediate seller of the equipment to the partnership and will hereinafter be referred to as the "immediate seller." The partnership was to pay less then ten percent of the purchase price of the equipment in case at closing, and the remainder was to be financed by a nine-year non-recourse note. The equipment was purportedly already subject to a bank debt at the time of this transaction.

(2) Just prior to this sale to the partnership, the immediate seller had purportedly purchased the equipment from another identified entity (the "equipment seller") for resale to the partnership.

(3) Simultaneously with purchasing the equipment from the immediate seller, the partnership was to lease the equipment back to the equipment seller under a non-cancellable nine-year lease. The equipment seller would thereby become a lessee of the equipment from the partnership. This entity will hereinafter be referred to as the "equipment seller/lessee."

(4) At the time of all these transactions, the equipment was represented to be already in place and in use by one or more identified nationally recognized companies (the "user"). The user had purportedly leased the equipment from the equipment seller/lessee before it was sold

to the immediate seller for resale to the partnership. This underlying lease (the "user lease") was to expire within 36 to 48 months, at which time the equipment was to be re-leased to another user, if possible. During the pendency of any such subsequent user lease, the partnership was to receive a specified "bonus rental" of approximately 50 percent of the subsequent user's lease payments.

b. The Master Tape Transactions

(1) In addition to and simultaneously with purchasing the computer equipment, the partnership was to also purchase a master tape for certain specific computer software (the "master tape") from the same immediate seller from whom it had purchased the computer equipment. The master tape was purportedly designed for a specialized function or for use in a specific identified industry, and was purportedly readily marketable for that function or within that industry. The partnership was to pay less than ten percent of the purchase price of the master tape in cash at closing, and the remainder was to be financed by a long-term note of approximately 20 years. In addition, each partner in the partnership was to execute a "personal liability agreement" making him or her personally liable for his or her pro-rata share of the partnership's liability on the master tape note.

(2) Just prior to this sale to the partnership, the immediate seller had purportedly purchased the master tape from another identified entity (the "master tape seller") for resale to the partnership.

(3) Simultaneously with purchasing the master tape from the immediate seller, the partnership was to lease the master tape back to an identified affiliate of the master tape seller. This entity will hereinafter be referred to as the "master tape lessee."

(4) The master tape lessee was to market and license the master tape to businesses or entities that were in need

of the specialized function the software could perform or within the specific industry for which the software was designed. Revenues generated from marketing and licensing the master tape were to be shared with the partnership in the form of certain specified flat and percentage fees paid to the partnership.

7. The offering memorandum issued to promote and sell the Columbia Associates limited partnership and to attract potential investors contained, among other things, the following:

a. A description of the transactions as outlined above;

b. A purportedly independent appraisal of the computer equipment, including an appraisal and valuation of its fair market value, residual value and useful life;

c. A purportedly independent appraisal of the master tape, including an appraisal and valuation of its fair market value and useful life, and a description of potential markets and licensees for the master tape; and

d. A tax opinion letter by Defendant Lampf describing the tax benefits to be derived form investing in the partnership, including eligibility for an investment tax credit for the master tape transaction, depreciation of both equipment and master tape, and for investor interest expense, and partnership trade or business expenses and losses.

8. In or around April and/or October 1984, in connection with the settlement of litigation against them relating to the limited partnerships known as Evergreen Associates, Celica Associates, Maverick Associates, and Yoakum Associates, the packager Defendants and Defendant Lampf arranged to have all documents and materials relating to or generated in that litigation kept confidential and/or sealed by the Court.

DESCRIPTION OF THE PLAINTIFF

9. The Plaintiff invested in the Columbia Associates limited partnership in the amount of $26,805.00 between December 17, 1980, and January 28, 1982.

DESCRIPTION OF THE DEFENDANTS

The Packagers

10. Defendants Leasing Consultants Associates ("LCA"), Leasing Consultants, Inc. ("LCI"), William L. McKenna ("McKenna"), Richard A. Heitmeyer ("Heitmeyer"), Richard D. Wellbrock ("Wellbrock") and William B. Ward ("Ward") acted as packagers and promoters of the tax shelter program sold to Plaintiff, and conceived and arranged for the sale, purchase and lease transactions involved, procured the services of Lampf and other Defendants, caused the preparation and dissemination of a model offering memorandum, solicited and procured broker/dealers and others to place or sell the limited partnership interest to Plaintiff, and solicited and procured appraisals for the equipment and master tapes.

11. Defendant LCA was at all relevant times a New Jersey general partnership comprised of Defendants McKenna, Heitmeyer and Wellbrock.

12. Defendant LCI was at all relevant times a Delaware corporation with its principal place of business in New Jersey, and was an affiliate of Defendant LCA. Defendants McKenna, Heitmeyer, Wellbrock and Ward were officers and controlling persons of LCI and were, at all relevant times, citizens of the State of New Jersey.

The Immediate Sellers

13. As described above, Defendant LCA was at all relevant times a New Jersey general partnership.

14. As described above, Defendant LCI was at all relevant times a Delaware corporation with its principal place of business in New Jersey.

15. Defendant American Computer Equipment Leasing, Inc. ("ACE") was at all relevant times a corporation doing business in the State of New York.

16. Defendant Computer Systems Consultants, Inc. ("CSC") was at all relevant times a Delaware corporation with its principal office in Ridgewood, New Jersey.

The Equipment Sellers/Lessees

17. Defendant Analysis International Co., Inc. ("Analysis") is or was a corporation with its principal place of business in Charlotte, North Carolina. Defendant Anico Computer Leasing, Inc. ("Anico") is or was a North Carolina corporation and the parent corporation and controlling person of Defendant Analysis. Defendants Amato Hernandez ("Hernandez") and John Chandler ("Char dler") are or were officers and controlling persons of Analysis and Anico.

18. Defendant Alanthus Computer Corporation ("Alanthus Computer") and Defendant Alanthus Corporation ("Alanthus") are or were Delaware corporations. On information and belief, Alanthus Computer and/or Alanthus are now known as Technology Finance Group. On information and belief, Alanthus Computer and /or Alanthus may have been affiliated with Analysis International Co., Inc.

a. Defendant Comdisco, Inc. ("Comdisco") is or was a corporation doing business in the State of Illinois, and Defendant Kenneth Pontikes ("Pontikes") is or was an officer and controlling person of Comdisco.

The Master Tape Lessees and Affiliates

19. Defendants Kirby Microprocessors, Inc. ("KMI") and Kirby Computer Systems, Inc. ("Kirby Computer") were

at all relevant times corporations doing business in the State of New Jersey. Defendant Robert M. Kirby ("Kirby") is or was the owner and controlling person of KMI and Kirby Computer.

20. Defendants Gordon S. Rosen Associates, Inc. ("Rosen Associates") and Software Systems for Word Processors, Inc. ("SSWPI") were at all relevant times corporations doing business in the State of New York. Defendant Gordon S. Rosen ("Rosen") is or was the owner and controlling person of Rosen Associates and SSWPI.

21. Defendants Robrech Systems, Inc. ("Robrech") and Digitize, Inc. ("Digitize") were at all relevant times corporations doing business in the State of New York.

22. Defendants Buhler Software Services ("Buhler Software") and P-STAT, Inc. ("P-Stat") were at all relevant times corporations doing business in the State of New Jersey. Defendant Roald Buhler ("Buhler") is or was the owner and controlling person of Buhler Software and P-Stat.

23. Defendants ASG Program Products, Inc. ("ASG") and Applications Systems Group, Inc. ("Applications") were at all relevant times corporations doing business in the State of New York. Defendant Martin D. Pine ("Pine") is or was the president and/or controlling person of ASG and Application.

a. Defendant Mark Hanson was at all relevant times the president and controlling person of two entities known as Prose, Inc. and M. A. Hanson & Associates which were a corporation entity doing business in the State of Pennsylvania.

The Equipment Appraisers

24. Defendant Computer Value Associates ("Computer Value") was at all relevant times a company doing business

in the State of New York. Defendant James Cuthbert ("Cuthbert") is or was the president and controlling person of Computer Value.

25. Defendants Texcom Equipment Corporation ("Texcom") and Global Computer Corporation ("Global") were at all relevant times corporations doing business in the State of Texas. Defendant Ronald Johnson ("Johnson") is or was the president, owner, and controlling person of Texcom and Global.

26. Defendant Berlent Industries, Inc. ("Berlent Industries") was at all relevant times a corporation doing business in the State of New York. Defendant Harvey N. Berlent ("Berlent") is or was the president and controlling person of Berlent Industries.

The Master Tape Appraisers

27. Defendant Ward was at all relevant times a citizen of the State of New Jersey.

28. Defendant ConServ International, Inc. ("ConServ") was at all relevant times a corporation doing business in the State of New. Jersey. Defendant Robert W. Steinberger ("Steinberger") is or was the president and controlling person of ConServ. Prior to his association with ConServ, Steinberger was vice president of Defendant Kirby Computer.

29. Defendant Technical Marketing Services, Inc. ("TMS") was at all relevant times a corporation doing business in the States of New York and New Jersey. Defendant Leonard F. Turi ("Turi") is or was the president and controlling person of TMS.

a. Defendant Edward Fizell was at all relevant times a citizen of the State of New Jersey.

The Attorneys

30. Defendant Lampf, Pleva, Lipkind, Prupis & Petigrow, P.C. ("Lampf") was at all relevant times a professional legal corporation with its principal place of business in the State of New Jersey. Lampf is now known as Lampf, Lipkind, Prupis & Petigrow, P.C.

The General Partnership

31. The packagers solicited and arranged for James D. Quenemoen and Robert G. Williams of Columbia Associates, Portland, Oregon, to act as general partners for their partnership and were responsible for, among other things, the following:

a. Soliciting and procuring various broker/dealers and individuals to purchase interest in the limited partnership;

b. Utilizing services of the Defendant attorneys to acts as tax counsel for the Columbia Associates limited partnership;

c. Preparing and distributing a memorandum to Defendant broker Paulson Investment Co., Inc., modeled after the memorandum offered to Columbia Associates by the Defendant packagers.

32. Defendant Columbia Associates was at all relevant times an Oregon general partnership comprised of James D. Quenemoen and Robert G. Williams, who are citizens of the State of Oregon.

The Brokerage Firm

33. The packagers and/or Columbia Associates solicited and procured broker/dealers to place or file interest in the limited partnerships. Paulson Investment Co., Inc., was such a broker/dealer who was responsible for, among other things, soliciting and procuring Plaintiff Catalan into purchasing an interest in the limited partnership; utilizing and distributing a memorandum, prepared by Columbia Associates and modeled after the memorandum offered by the Defendant packagers.

34. Defendant Paulson Investment Co., Inc., was at all relevant times an Oregon corporation with its principal place of business in Oregon. Chester Paulson was the president and controlling person of Paulson Investment Co., and was at all relevant time, a citizen of the State of Oregon.

Non-Defendant Co-Conspirators

35. The Lawrence Group was at all material times a consulting firm controlled by Defendant William Ward. After the sales of the limited partnership unites described herein, the Lawrence Group was engaged by the partnerships, at the suggestion of the packager Defendants, purportedly to monitor the status of each of the partnerships' equipment and master tape leases and to make periodic reports to the partnerships describing this status.

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

36. Plaintiff realleges and incorporates by reference paragraphs 1 through 35 above.

37. The following Defendants participated in the Columbia Associates limited partnership in the following capacities. They shall sometimes hereinafter be collectively referred to as the "Columbia Defendants."

a. Defendants LCA, LCI, McKenna, Heitmeyer, Wellbrock, and Ward packaged and promoted the Columbia partnership and were responsible for, among other things, the following:

(1) Creating a Connecticut limited partnership, which was subsequently renamed Columbia Associates;

(2) Conceiving, arranging for and structuring the purchase, sale and lease transactions for the partnership;

(3) Soliciting and arranging for the installation of a general partner for the partnership;

(4) Soliciting and procuring broker/dealers and others to place or sell interests in the partnership;

(5) Soliciting and procuring other Columbia Defendants to act as sellers, lessees, and appraisers of the partnership's equipment and master tape;

(6) Soliciting and procuring the services of Defendant Lampf to: act as special tax counsel for the partnership, render a tax opinion for the partnership, prepare, print, and distribute a model offering memorandum on which the Columbia offering memorandum was based and prepare, print, and distribute a model partnership agreement and model sales and lease agreements on which the columbia partnership agreement and sales and lease agreements were based; and

(7) Instructing Defendant Lampf with respect to disbursements of subscription proceeds from the escrow account maintained on behalf of the partnership.

b. In addition to its role as a packager, Defendant LCI was also the immediate seller for the Columbia partnership. As described in paragraph 6a above, in this capacity, LCI was the entity that purchased the IBM equipment and the master tape from the equipment seller and the master tape seller, and then resold the equipment and master tape to the partnership. This equipment (hereinafter the "Columbia equipment") purportedly consisted of two IBM 370/158 CPU's, an IBM 3800 Printing Subsystem, and approximately thirteen pieces of IBM peripheral equipment. The Columbia partnership was to pay a total of 1.45 million dollars for this equipment. The master tape was of a software program known as Office Automation System ("OAS"), which was purportedly specially designed to perform basic accounting functions, such as payroll and receivables, on Xerox and Wang Word processing units, and was purportedly readily marketable to businesses having those makes of word processing units. The Columbia partnership was to pay a total of 1.95 million

dollars for this master tape. Defendants McKenna, Heitmeyer, Wellbrock, and Ward were principals and controlling persons of Defendant LCI. LCI played an integral and essential role in the fraud perpetrated upon the Plaintiff in that, by purchasing the Columbia equipment and the OAS master tape from the equipment seller and the master tape seller, and then reselling this equipment and master tape to the Columbia partnership, it obscured the original purchase price of the equipment and master tape, provided a means by which the price of the equipment and master tape could be inflated, and gave the partnership's purchase of the equipment and master tape the appearance of an arm's length transaction at a negotiated, fair market price. LCI was or should have been aware of its integral role in the Columbia offering and of the lack of economic substance in these transactions in that it both bought and sold the equipment and master tape on the same day at a substantial profit with virtually no risk to itself, and with knowledge or reason to know that the equipment and master tape would be used by the packagers in a limited partnership offering. LCI knew or should have known its equipment and master tape transactions described herein would be used to induce these investors to invest in the partnership, and that these investors would rely upon the terms of these transactions in making their investment decisions and to substantiate, for tax purposes, the fair market value, useful life, title and residual value of the equipment, and the fair market value and useful life of the master tape.

c. Defendant Analysis was the equipment seller/lessee for the Columbia partnership. As described in paragraph 6a above, in this capacity, Analysis was the entity that sold the Columbia equipment to the immediate seller, LCI, for resale to the Columbia partnership, and then leased the equipment back from the partnership. It was also the entity that had, purportedly, previously leased the equipment to the end users, which were represented to be W. R.

Grace & Company, Westinghouse Electric Corporation, and Spring Mills, Inc., and was to re-lease the equipment to one or more subsequent end users when the existing user leases expired. Defendant Anico was the parent corporation and a controlling person of Analysis. Defendants Hernandez and Chandler were officers and controlling persons of Analysis. Analysis played an integral and essential role in the fraud perpetrated upon the Plaintiff in that, by selling the Columbia equipment to LCI for resale to the Columbia partnership, it further obscured the original purchase price of the equipment, provided part of the justification for the inflated price the partnership was to pay for the equipment, and provided the illusion that LCI had purchased the equipment from an independent third party at an arm's length, negotiated price. By acting as lessee of the equipment, Analysis also added credence to the reasonableness of the end user lease terms described in the columbia offering memorandum, and thus helped to substantiate the inflated price the partnership was to pay for the equipment. As lessee of the equipment, Analysis also provided the sale/lease back scheme with an entity that would relieve the partnership of any responsibility to re-lease the equipment at the expiration of the end user leases, in anticipation of a probable IRS objection to the economic substance of these transactions if the partnership had to seek its own lessees. Analysis was or should have been aware of its integral role in the Columbia offering and of the lack of economic substance in these transactions in that it made a substantial profit as a result of these transactions with little or no risk to itself, and with knowledge or reason to know that the equipment would be used by the packagers in a limited partnership offering. Analysis knew or should have known the equipment transactions described herein would be used to induce investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes,

the fair market value, title, useful life and residual value of the equipment.

d. Defendant SSWPI was the master tape lessee for the Columbia partnership. As described in paragraph 6b above, in this capacity, SSWPI was the entity that leased the OAS master tape back from the Columbia partnership and was to market and obtain licensees for the use of the master tape. Defendant SSWPI was an affiliate of Rosen Associates, which was the master tape seller for the Columbia partnership. As described in paragraph 6b above, in this capacity, Rosen Associates was the entity that sold the OAS master tape to LCI, the immediate seller, for resale to the Columbia partnership. Defendant Rosen was the owner and controlling person of Rosen Associates and SSWPI. Rosen Associates, SSWPI, and/or Rosen had purportedly developed the OAS software program and had purported expertise in marketing the OAS master tape. On information and belief, Rosen formed Rosen Associates and/or SSWPI solely for purposes of participating in the Columbia partnership. Rosen Associates and Rosen played an integral and essential role in the fraud perpetrated upon the Plaintiff in that, by selling the OAS master tape to LCI for resale to the partnership, they made the purchase price of the tape appear reasonable by making it appear as if LCI had purchased the tape from an independent third party in an arm's length, negotiated transaction. SSWPI and Rosen played an integral and essential role in the fraud perpetrated upon the Plaintiff in that, by virtue of their purported expertise in the OAS software program and in the marketing of this software, they appeared capable of successfully exploiting the OAS master tape, and thus gave credence to the ambitious market-share goals and profit projections used by the master tape appraiser to justify the inflated valuation of the tape. Rosen Associate, SSWPI, and Rosen were or should have been aware of their integral role in the Columbia offering and of the lack of economic substance in these transactions

in that they made or stood to make a substantial profit as a result of these transactions with little or no capital outlay and little or no risk to themselves, and with knowledge or reason to know that the OAS master tape would be used by the packagers in a limited partnership offering. Rosen Associates, SSWPI, and Rosen knew or should have known that the OAS master tape transactions described herein would be used to induce the investors to invest in the partnership, and that the investors would rely on the terms of the transactions in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the OAS master tape.

e. Defendant Computer Value was the equipment appraiser for the Columbia partnership. Defendant Cuthbert was the president and controlling person of Computer Value. Defendants Computer Value and Cuthbert prepared a written appraisal of the Columbia equipment, on or about September 29, 1980 (hereinafter "the Cuthbert-Columbia appraisal"), which appeared in the Columbia offering memorandum, and which represented that the Columbia equipment had a fair market value of 1.5 million dollars, a useful life in excess of nine years, and a residual value at the end of nine years in excess of $300,000.00. Computer Value and Cuthbert played an integral and essential role in the fraud perpetrated upon the Plaintiff in that, the Cuthbert-Columbia appraisal justified the inflated price the partnership was to pay for the Columbia equipment and provided the limited partners with "independent" substantiation for the assumptions in the Columbia offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the equipment was reasonable, that it had a useful life of at least nine years, and that it would have a substantial residual value, after the expiration of the end user leases, from which the partnership would derive bonus rentals. Computer Value and Cuthbert were or should have been aware that the Cuthbert-Columbia appraisal would be disseminated to pro-

spective investors in Columbia Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the Cuthbert-Columbia appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value, residual value, and useful life of the Columbia equipment.

f. Defendant TMS was the master tape appraiser for the Columbia partnership. Defendant Turi was the president and controlling person of TMS. Defendants TMS and Turi prepared a written appraisal of the OAS master tape, on or about October 31, 1980 (hereinafter "the TMS-Columbia appraisal"), which appeared in the Columbia offering memorandum, and which represented that the fair market value of the OAS master tape to be purchased from Rosen Associates and leased to SSWPI was in excess of 3.4 million dollars, and that it had a useful life of at least nine years. This appraisal also represented that the purchase price that the Columbia partnership was paying for the OAS master tape was equal or close to this appraised fair market value. This appraisal also represented that Defendant Turi had met with the management and technical staff of Rosen Associates and SSWPI, had examined in detail the contents of the OAS master tape, and had discussed with Rosen Associates and SSWPI the underlying objectives of the OAS program, its current development and operational status, the marketing plans contemplated by SSWPI, and the market segments that could benefit from licensing the OAS master tape. TMS and Turi played an integral and essential role in the fraud perpetrated upon the Plaintiff in that, the TMS-Columbia appraisal justified the inflated price the partnership was to pay for the OAS master tape and provided the limited partners with "independent" substantiation for the assumptions in the Columbia offering memorandum on which the promised tax benefits were based, *i.e.*, that the purchase price of the OAS master tape was reasonable, that the tape was potentially profitable, and that it had a useful

life of at least nine years. TMS and Turi were or should have been aware that the TMS-Columbia appraisal would be disseminated to prospective investors in Columbia Associates and would be used to induce these investors to invest in the partnership, and that these investors would rely upon the TMS-Columbia appraisal in making their investment decisions, and to substantiate, for tax purposes, the fair market value and useful life of the OAS master tape.

g. Defendant Lampf was the special tax counsel for the Columbia partnership. In this capacity, Lampf issued a special written tax opinion for the Columbia partnership, on or about October 1980 (hereinafter "the Lampf tax opinion"), which it knew would appear in the Columbia offering memorandum, and upon which it knew potential investors, including the Plaintiff, would rely in making their investment in Columbia Associates. As stated in the tax opinion, the purpose of the opinion was to set forth certain federal income tax benefits to limited partners who had invested capital in Columbia Associates, as more particularly alleged in paragraph 7d. Lampf was paid at least $20,000.00 for preparing this tax opinion. Lampf also prepared, printed, and distributed a model offering memorandum, on which the Columbia offering memorandum was based. Lampf also prepared, printed, and distributed a model partnership agreement and model sale and lease agreements, on which the columbia partnership agreement and sale and lease agreements were based.

38. Beginning in or around November 1980, and continuing to the present, the Columbia Defendants, in concert and conspiracy with one another, employed or aided and abetted a device, scheme, or artifice to defraud the Plaintiff in connection with the sale of limited partnership interests in Columbia Associates, as described more particularly below. These limited partnership interests constitute investment contracts and securities, and consisted of a tax shelter program to purchase and lease back the

Columbia computer equipment and master tape described above. This program was purportedly designed to generate substantial tax benefits to the Columbia investors, as more particularly alleged in paragraph 7d, in addition to income and profits.

39. The Plaintiff was induced to invest in Columbia Associates by means of an offering memorandum dated November 14, 1980, and a supplemental offering memorandum dated December 29, 1980 (hereinafter collectively "the Columbia offering memorandum"), which included the Lampf tax opinion, the Cuthbert-Columbia appraisal, and the TMS-Columbia appraisal. This offering memorandum described, among other things, the IBM computer equipment to be purchased and leased back by the partnership, as described in paragraph 37b above, the end users that were purportedly already leasing this equipment, as described in paragraph 37c above, the master tape to be purchased and leased back by the partnership, as described in paragraph 37b above, the fair market value, residual value, and useful life of the equipment and master tape, as described in paragraphs 37e-f above, and the tax benefits and profits to be derived from investing in the partnership, as described in paragraph 7d above. This offering memorandum also represented that the partnership's master tape appraiser, Mr. Turi, was to be hired by the partnership to act as consultant to the partnership to periodically review the partnership's activities and monitor the revenues received by the partnership.

40. The Columbia offering memorandum also stated that the packager Defendants had had transactions in the past, and contemplated transactions in the future, in which they sold or brokered computer equipment and/or master tapes to other partnerships in which some or all of the participants in the Columbia partnership had been, or would be, involved. This offering memorandum also stated that Defendant Lampf had acted in the past, and anticipated acting in the future, as counsel to other partnerships in

which some or all of the participants in the Columbia partnership had been, or would be involved.

41. In connection with the sale of interest in Columbia Associates to the Plaintiff, the following Defendants represented the following:

a. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the limited partnership investment would provide substantial profits resulting from fees generated form licensing the OAS master tape and from the lease income and residual value in the Columbia equipment;

b. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the lampf tax opinion supported the investors' entitlement to tax benefits and the legitimacy of the program under existing applicable laws;

c. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Columbia appraisal, represented that the Columbia equipment existed, was specifically identified, and was already under lease to W. R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc., on terms that would provide sufficient income to cover the lease payments to the seller;

d. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that the OAS master tape program was ready to be marketed in its then-existing format and would readily achieve a substantial market share in its target market;

e. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, represented that the OAS master tape program was tangible, new and original and previously unexploited property, and therefore qualified for investment tax credits;

f. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that SSWPI and Rosen Associates, the master tape lessee and its affiliate, despite their small size, were skilled enough and possessed the required capital, expertise, ability, and personnel to successfully market and obtain licensees for the OAS master tape and thereby generate revenues for the Columbia partnership sufficient to repay the seller for its purchase price and to make a profit for the partnership;

g. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the management and staff of Rosen Associates and SSWPI, and had become familiar with the contents and operation of the OAS program and the marketing potential of the OAS master tape;

h. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and Computer Value and Cuthbert, in the Cuthbert-Columbia appraisal, represented that the fair market value, residual value, and useful life attributed to the Columbia equipment were reasonable and accurate;

i. The packagers and Lampf, in the Columbia offering memorandum and the Lampf tax opinion, and TMS and Turi, in the TMS-Columbia appraisal, represented that the fair market value and useful life attributed to the OAS master tape were reasonable and accurate.

42. These representations were false and misleading in that:

a. The IBM computer equipment described in the Columbia offering memorandum did not exist or was not under lease to the end users, W. R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc., as represented;

b. The profits promised in the Columbia offering memorandum and in the Lampf tax opinion could not be realized by the Plaintiff;

c. The actual fair market value, residual value, and useful life of the Columbia equipment were substantially less than represented;

d. The actual fair market value and useful life of the OAS master tape were substantially less than represented;

e. The OAS master tape was not readily marketable in its target market without substantial modifications in format;

f. On information and belief, the OAS master tape program was not tangible, new, original or previously unexploited property, and therefore not qualified for investment tax credit;

g. Rosen Associates and SSWPI did not possess the skill, ability, personnel, or financial wherewithal to successfully market or license the OAS master tape;

h. On information and belief, before issuing the TMS-Columbia appraisal, Turi had not met with the management and staff of Rosen Associates and SSWPI, had not tested or run the OAS program and was not familiar with its contents and operation and had not adequately investigated the marketability of the OAS master tape.

43. In making the representations described above, the following Columbia Defendants failed to disclose the following material facts to Plaintiff:

a. The packagers and Lampf failed to disclose that the IBM equipment described in the Columbia offering memorandum was not in fact the equipment owned by LCI or Analysis and purchased by the partnership;

b. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the IBM equipment described

in the columbia offering memorandum was not currently under lease to W. R. Grace & Co., Westinghouse Electric, and Spring Mills, Inc., the purported end users;

c. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the actual fair market value, residual value, and useful life of the Columbia equipment were substantially less than represented in the columbia offering memorandum and in the Cuthbert-Columbia appraisal;

d. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that they had not performed any investigation to examine the Columbia equipment or to verify its existence and condition;

e. The packagers, Lampf, Computer Value, and Cuthbert failed to disclose that the Columbia IBM equipment was essentially obsolete at the time it was purchased by the columbia partnership in that IBM had already announced the introduction of new, better systems that would render the equipment obsolete;

f. The packagers, Lampf, TMS, and Turi failed to disclose that the actual market value and useful life of the OAS master tape were substantially less than represented in the Columbia offering memorandum and in the TMS-Columbia appraisal;

g. The packagers, Lampf, TMS, and Turi failed to disclose that the TMS-Columbia appraisal contained income projections for valuation purposes that were made without a reasonable basis in fact;

h. The packagers, Lampf, TMS, and Turi failed to disclose that before issuing the TMS-Columbia appraisal, Turi had not met with the management and staff of Rosen Associates and SSWPI, had not tested or run the OAS program and was not familiar with its contents and operation, and had not adequately investigated the marketability of the OAS master tape;

i. The packagers, Lampf, TMS and Turi failed to disclose that, in order to achieve the market share projected in the TMS-Columbia appraisal, the expenses of marketing the OAS master tape would be enormous, and that these expenses would need to be paid out of any gross revenues received from licensing the master tape before any profit could be returned to the partnership;

j. The packagers, Lampf, TMS, and Turi failed to disclose that Rosen Associates and SSWPI were undercapitalized and without sufficient skill, expertise, and personnel to market and license the OAS master tape and generate revenues for the partnership;

k. The packagers, Lampf, TMS, and Turi failed to disclose that the OAS master tape was not readily marketable in its target market without substantial modifications in format; and

l. The packagers, Lampf, Analysis, Computer Value, and Cuthbert failed to disclose that the Columbia partnership would not and could not obtain title to the Columbia equipment because of the terms and nature of preexisting transactions involving the Columbia equipment.

44. Defendants Cuthbert, Computer Value, TMS, Turi, LCI, Analysis, Hernandez, Chandler, Anico, Rosen Associates, SSWPI, and Rosen aided and abetted in the misrepresentations and omissions alleged above in that their roles in the Columbia partnership and their actions in furtherance of these roles, as described in paragraphs 37b-f above, were essential components of the fraud perpetrated on Plaintiff and provided substantial assistance to Defendants LCI, LCA, McKenna, Heitmeyer, Wellbrock, Ward, and Lampf in committing a fraud on Plaintiff.

45. Beginning in and around November 1980, and continuing until the present, the Columbia Defendants, and each of them, combined and conspired with each other in an effort to commit and conceal the wrongful acts and

omissions described herein. In furtherance of this scheme and conspiracy, in or around April, 1981, the packager Defendants arranged for Mr. Turi to be replaced by The Lawrence Group to act as consultant to the partnership and continually assured and represented to the Plaintiff, through periodic reports from The Lawrence Group, that lease payments on the Columbia equipment lease were current and that diligent efforts were being made to market and obtain licensees for the OAS master tape when, in fact, equipment lease payments owed to the partnership were sometimes delinquent, and little or no effort was being made to market and obtain licensees for the master tape. To the extent that any problems were identified in these Lawrence Group reports concerning the equipment lease or the master tape marketing, they were attributed to unanticipated events or market trends.

46. Plaintiff had no reason to question or doubt the accuracy of any of the representations made by the Columbia Defendants, as described herein. Plaintiff had no reason to believe that the Columbia Defendents omitted to state material facts, as described herein. Plaintiff was not aware of the true facts or the facts that the Columbia Defendants omitted to state. Plaintiff was entitled to and did rely on the Columbia Defendants' representations, as described herein, and would not have purchased any interests in the Columbia limited partnership had the misrepresentations of material facts not been made or had the omissions of material fact not occurred.

47. The Plaintiff did not discover and could not reasonably have discovered the facts giving rise to the claims asserted herein until at least March 1986, after he conducted an investigation of the programs described herein following questioning by the IRS of certain tax deductions they had claimed based upon their investment in these partnerships.

48. Plaintiff was duly diligent in attempting to uncover the facts giving rise to the claims asserted herein. The packagers and Lampf attempted to and did mislead the Plaintiff and conceal the fraud alleged herein by means of the affirmative acts described in paragraphs 8 and 45 above. If Plaintiff or his agents knew of any facts potentially constituting the claims asserted herein, then the conduct of the packagers and Lampf, as described in paragraphs 8 and 45 above, led them, under the circumstances described herein, to disregard those facts and to reasonably believe that they did not have a claim for relief.

49. Plaintiff hereby tenders his limited partnership interest to the Columbia Defendants.

* * *

COUNT II

(1934 Securities Exchange Act - Section 10 (b))

56. Plaintiff realleges and incorporates by reference paragraphs 1 through 49 above.

57. In connection with the sale of the limited partnership interests in Columbia Associates, Defendants LCI, LCA, McKenna, Wellbrock, Ward, and Lampf (the "Columbia primary violators"), and each of them, directly or by indirect means, and by the use of instrumentalities of interstate commerce and by use of the mails, employed a device, scheme, and artifice to defraud the Plaintiff; made untrue statements of material fact, as described in paragraphs 41-42 above, and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as described in paragraph 43 above; and engaged in acts, practices, and a course of business designed to operate, and that did operate, as a fraud and deceit upon Plaintiff.

58. The Columbia primary violators, and each of the, knew of the falsity of the representations described in paragraph 41 above, or recklessly failed to ascertain the truth of the representations. The Columbia primary violators knew of the omissions of material fact described in paragraph 43 above, or recklessly failed to disclose these facts.

59. Defendants Analysis, Hernandez, Chandler, Anico, LCI, Computer Value, Cuthbert, Rosen Associates, SSWPI, Rosen, TMS, and Turi (the "Columbia aiders and abettors") knew that their actions, as described in paragraphs 37b-f and 44 above, furthered and provided substantial assistance to the Columbia primary violators in committing a fraud on Plaintiff.

60. The Defendant primary violators' and aiders' and abettors' acts as described herein constitute a violation of Section 10 (b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 15 U.S.C. § 78j (b), and 17 C.F.R. 240.10b-5.

61. As a result of these acts, Plaintiff is entitled to recover damages equal to all sums paid for his investment, together with interest thereon since the date paid.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Civil No. 86-1368-RE

JOHN V. REITZ *et al.*,
Plaintiffs,

v.

LEASING CONSULTANTS ASSOCIATES, *et al.*,
Defendants.

Civil No. 86-1369-RE

JOHN and JANICE GILBERTSON, *et al.*,
Plaintiffs,

LEASING CONSULTANTS ASSOCIATES, *et al.*,
Defendants.

Civil No. 87-593-RE

ANTHONY E. CATALAN,
Plaintiff,

v.

PAULSON INVESTMENT COMPANY, INC.*et al.*,
Defendants.

U.S. DISTRICT COURT
DISTRICT OF OREGON

FILED

JUL 14 1988

BY ROBERT M. CHRIST, CLERK DEPUTY

Based on the record,

IT IS ORDERED that judgment is for defendants and these three cases are DISMISSED.

Dated this 14 day of July, 1988.

/s/ Robert M. Christ,

Robert M. Christ, Clerk
United States District Court
District of Oregon